



# California Regulatory Notice Register

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MARCH 15, 2002

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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## PROPOSED ACTION ON REGULATIONS

*Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.*

### TITLE 2. STATE ALLOCATION BOARD

#### NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES AMENDMENTS TO REGULATION SECTIONS 1859.82, 1859.83, 1859.92, 1859.104, 1859.105, AND 1859.107, TITLE 2, CALIFORNIA CODE OF REGULATIONS RELATING TO LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced regulation sections contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

#### AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend these regulations under the authority provided by Sections 17070.35, 17072.13, 17072.25, 17075.15, and 100420(d) of the Education Code. The proposals interpret and make specific reference to Sections 17070.33, 17070.35, 17072.13, 17072.25, 17075.10, 17075.15, 17076.10, and 17076.63 of the Education Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The SAB adopted regulations to implement the Leroy F. Greene School Facility Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999. Amendments to these regulations are being proposed.

Existing Section 1859.82 establishes the criteria a district must meet to be eligible for facility hardship funding. It also establishes the square footage amounts for replacement facilities and specific timeframes for application submittal. The proposed amendments reflect clarifying language for purposes of maintaining consistency in the regulations.

Existing Section 1859.83 provides an additional grant amount to the School Facility Program New Construction and Modernization Grants, as a result of unusual circumstances that created excessive project costs beyond the control of the district. The proposed amendments alter the calculation when determining the excessive cost hardship grant provided for projects.

Existing Section 1859.92 makes specific the methodology for calculating priority points for new construction projects. It allows for a more uniform and equitable priority point system that facilitates the distribution of funds to the most needy districts in the State. The proposed amendments provide clarifying language and increases flexibility to school districts in setting their project funding priorities.

Existing Section 1859.104 provides a mechanism for a district to report all relevant SFP project information. It also requires a district to submit a progress report 12 months from the date site acquisition funds were apportioned. The proposed amendment deletes language that is no longer applicable.

Existing Section 1859.105 requires the SAB to conduct an SFP project progress audit. It explains the scope of the audit, and establishes the criteria on which a determination of substantial progress is made. It also provides that a review shall be conducted and sets forth criteria of acceptable evidence assuring substantial progress has been made towards the completion of a project. The proposed amendments provide other mechanisms for meeting the substantial progress on separate design phases of a project.

Existing Section 1859.107 provides for the withdrawal and re-submittal of applications in order to benefit from changes in the law or regulations. The proposed amendments provide school districts that have already received site funding additional time to meet substantial progress when encountering significant toxic issues.

#### IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the state pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not

require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

#### **ECONOMIC IMPACT**

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact on the creation or elimination of jobs within the state, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the state.
- There are no costs or savings to any State agency.
- The SAB had made an initial determination that there will be no impact on housing costs.

#### **EFFECT ON SMALL BUSINESSES**

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to school districts for purposes of funding school facility projects.

#### **SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION**

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax, must be received at the Office of Public School Construction (OPSC) no later than April 29, 2002 at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Lisa Jones, Regulations Coordinator

Mailing Address: Office of Public School Construction  
1130 K Street, Suite 400  
Sacramento, CA 95814

E-mail Address: [lisa.jones@dgs.ca.gov](mailto:lisa.jones@dgs.ca.gov)

Fax No.: (916) 445-5526

#### **AGENCY CONTACT PERSONS**

Questions regarding this Notice of Proposed Regulatory Action may be directed to Lisa Jones at (916) 322-1043. If Ms. Jones is unavailable, questions may be directed to the backup contact person, Dennis Boydston, at (916) 322-0327.

#### **ADOPTION OF REGULATIONS**

Please note that following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

#### **SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE**

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

#### **RULEMAKING FILE**

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.



2. A copy of this notice.
3. A copy of the Initial Statement of Reasons
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments is received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

#### ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

#### NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Agency) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

#### AUTHORITY

The authority for the Department of Food and Agriculture to adopt these regulations is provided in Food and Agricultural Code § 407.

#### REFERENCE

Food and Agricultural Code § 3965.1, § 3965(d), and § 4051(a).

#### PROPOSED REGULATORY ACTION

The Agency proposes to adopt Section 7015 in Title 3 of the California Code of regulations (CCR). This section concerns contract requirements for motorized racing activities at Association fairgrounds.

#### PUBLIC HEARING

The Agency has not scheduled a public hearing on this proposed action. However, the Agency will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative may submit written comments via mail, fax, or e-mail relevant to the proposed regulatory action to the Agency. The written comment period closes at 5:00 p.m, April 29, 2002. The Agency will consider only comments received by that time. Submit comments to:

Sue Fick, Regulation and Contract Program Manager  
Department of Food and Agriculture  
Division of Fairs and Expositions  
1010 Hurley Way, Suite 200  
Sacramento, CA 95825

Fax: (916) 263-2969

E-mail: [sfick@cdfa.ca.gov](mailto:sfick@cdfa.ca.gov)

#### INFORMATIVE DIGEST

The Legislature adopted Food and Agricultural Code Sections 3965, 4051, and subsequently 3965.1 to grant certain powers to the boards of Associations, including the authority to enter into revenue generating contracts, such as contracts for the conduct of motorized racing activities at Association facilities, with the approval of the Agency. The Food and Agricultural Code does not provide any specific guidelines and requirements for these contracts.

The proposed regulations will require Association Boards to establish curfew and noise level limits for the conduct of motorized racing activities at Association facilities. The proposed regulations will additionally require that these limitations, along with penalty measures, be included in any Association motorized racing contract.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

The Agency has made the following determinations:  
*Mandate on local agencies and school districts:* None.

*Cost or savings to any state agency:* None.

*Cost to any local agency or school district which must be reimbursed in accordance with government code Sections 17500 through 17630:* None.

*Other non-discretionary cost or savings imposed on local agencies:* None.

*Cost or savings in federal funds to the state:* None.

*Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states:* None.

The Agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new business or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

*Significant effect on housing costs:* None.

*Small Business Determination:* The Agency has determined that the proposed regulations affect small business.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5 subdivision (a)(13), the Agency must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Agency invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

#### CONTACT PERSON

Inquires concerning the proposed administrative action or the substance of the proposed action may be directed to:

Sue Fick, Regulation and Contract Program Manager  
Department of Food and Agriculture  
Division of Fairs and Expositions  
1010 Hurley Way, Suite 200  
Sacramento, CA 95825  
Telephone: (916) 263-2958  
E-mail: [sfick@cdfa.ca.gov](mailto:sfick@cdfa.ca.gov)  
Fax: (916) 263-2969

The backup contact person is:

Kirk Amato  
Department of Food and Agriculture  
Division of Fairs and Expositions  
1010 Hurley Way, Suite 200  
Sacramento, CA 95825  
Telephone: (916) 263-2955  
E-mail: [kamato@cdfa.ca.gov](mailto:kamato@cdfa.ca.gov)  
Fax: (916) 263-2969

Please direct requests for copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, or all other information upon which the rulemaking is based to:

Sue Fick, Regulation and Contract Program Manager  
Department of Food and Agriculture  
Division of Fairs and Expositions  
1010 Hurley Way, Suite 200  
Sacramento, CA 95825  
Telephone: (916) 263-2958  
E-mail: [sfick@cdfa.ca.gov](mailto:sfick@cdfa.ca.gov)  
Fax: (916) 263-2969

The backup contact person is:

Kirk Amato  
Department of Food and Agriculture  
Division of Fairs and Expositions  
1010 Hurley Way, Suite 200  
Sacramento, CA 95825  
Telephone: (916) 263-2955  
E-mail: [kamato@cdfa.ca.gov](mailto:kamato@cdfa.ca.gov)  
Fax: (916) 263-2969

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Agency will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Sue Fick at the address, e-mail, phone number, or fax number listed above, or accessed at the Department of Food and Agriculture website [www.cdfa.ca.gov/fe](http://www.cdfa.ca.gov/fe).

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the agency may adopt the proposed regulations substantially as described in this notice. If the Agency makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Agency adopts the regulations as revised. Please direct requests for copies of any modified regulations to the attention of Sue Fick at the address, e-mail, phone number or fax number indicated above or access at the Department of Food and Agriculture website [www.cdfa.ca.gov/fe](http://www.cdfa.ca.gov/fe). The Agency will accept written comments on the modified regulations for 15 days after the date on which they are made available.



AVAILABILITY OF FINAL STATEMENT  
OF REASONS

Once the Final Statement of Reasons has been prepared pursuant to Government Code Section 11346.9 subdivision (a), you may obtain a copy by contacting Sue Fick at the address, e-mail, phone number or fax number indicated above or access it at the Department of Food and Agriculture website [www.cdffa.ca.gov/fe](http://www.cdffa.ca.gov/fe).

**TITLE 3. DEPARTMENT OF  
FOOD AND AGRICULTURE**

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to repeal Sections 3431 and 3591.17 of the regulations in Title 3 of the California Code of Regulations pertaining to Olive Fruit Fly Interior Quarantine and Olive Fruit Fly Eradication Area.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before April 29, 2002.

INFORMATIVE DIGEST//POLICY  
STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry of California and prevent the spread of injurious pests (Food and Agricultural Code Sections 401 and 403). Existing law provides the Secretary may establish, maintain, and enforce eradication and quarantine regulations, as he deems necessary, to circumscribe and exterminate or prevent the spread of pests (Food and Agricultural Code, Sections 5301, 5302 and 5322).

Existing Section 3431 established an interior quarantine against olive fruit fly (*Bactrocera oleae*), provides that portions of Los Angeles County are under quarantine for olive fruit fly, set forth the hosts, restricts the movement of hosts and possible carriers of olive fruit fly from the area under quarantine and provides for special permits to allow movement of articles and commodities otherwise prohibited. This proposed action will repeal Section 3431 as it is no

longer feasible to prevent the artificial spread of olive fruit fly within California. The effect of this action will be to remove the specific State authority for performing quarantine activities against olive fruit fly in portions of Los Angeles County.

Existing Section 3591.17 established Los Angeles County as an eradication area for olive fruit fly, set forth the boundaries, the pest, and the means and methods that may be used in the eradication of the pest. This proposed action will repeal Section 3591.17, as it is no longer feasible to eradicate olive fruit fly from California. The effect of this action will be to remove the specific State authority to perform control and eradication activities against olive fruit fly in Los Angeles County. There are no existing, comparable federal regulations or statutes.

COST TO LOCAL AGENCIES AND  
SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Sections 3431 and 3591.17 do not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce Section 3431. No reimbursement is required for Section 3431 under Section 177561 of the Government Code because the proposed action will repeal this regulation; therefore, no enforcement activities are required.

The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON REPRESENTATIVE PRIVATE  
PERSON OR BUSINESS

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### **ASSESSMENT**

The Department has made an assessment that the proposed amendments to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

#### **ALTERNATIVES CONSIDERED**

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### **AUTHORITY**

The Department proposes to repeal Section 3431 pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code. The Department proposes to repeal Section 3591.17 pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code of California.

#### **REFERENCE**

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302, 5322, and 5761 through 5764 of the Food and Agricultural Code.

#### **EFFECT ON SMALL BUSINESS**

The repeal of this regulation may affect small businesses.

#### **CONTACT**

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: [sbrown@cdfa.ca.gov](mailto:sbrown@cdfa.ca.gov). In his absence, you may contact Kris Peeples at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Stephen S. Brown.

#### **INTERNET ACCESS**

The Department has posted the information regarding this proposed regulatory action on its Internet website ([www.cdfa.ca.gov/cdfa/pendingregs](http://www.cdfa.ca.gov/cdfa/pendingregs)).

#### **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons is available upon request. Requests should be directed to the contact named herein.

If the regulations repealed by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of repeal. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

### **TITLE 5. BOARD OF EDUCATION**

#### **NOTICE OF PROPOSED RULEMAKING**

##### **Dispute Resolution Regarding Facilities for Charter Schools**

The State Board of Education (State Board) proposes to adopt the regulation described below after considering all comments, objections, or recommendations regarding the proposed action.

#### **PROPOSED REGULATORY ACTION**

The State Board proposes to amend Section 11969.9 of Title 5 of the California Code of Regulations, providing guidance on dispute resolution regarding facilities for charter schools.

#### **PUBLIC HEARING**

The State Board will hold a public hearing starting at 11:00 a.m. on Monday, April 29, 2002 at 721 Capitol Mall, Room 166. The room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the agency of such intent. No oral statements will be accepted subsequent to this public hearing.

#### **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the State Board. All written comments must be received no later than the close of the public hearing scheduled to start at 11:00 a.m. on April 29, 2002. Requests to present oral

statements at the public hearing or written comments for the State Board's consideration should be directed to:

Pat McGinnis, Regulations Adoption Coordinator  
California Department of Education  
721 Capitol Mall, Room 552  
P. O. Box 944272  
Sacramento, California 94244-2720  
Telephone: (916) 657-4669  
FAX number: (916) 657-3844  
E-mail: pmcginni@cde.ca.gov

#### AUTHORITY AND REFERENCE

Authority for the proposed regulation is provided in Education Code section 47614(b). Education Code section 47614(b) states that the State Board may adopt regulations implementing subdivision (b). The regulations may define the procedures and establish timelines for the request for, reimbursement for, and provision of, facilities.

The reference for the proposed regulation is Education Code section 47614.

#### INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Proposition 39, enacted by the voters on November 7, 2000, changed the required majority for local voter approval of public school and community college general obligation bonds from two-thirds to fifty-five percent of the votes. It also amended Education Code section 47614, imposing a new requirement that school districts provide facilities to charter schools that serve at least 80 in-district students. Facilities must be sufficient to accommodate the charter school's in-district students in conditions reasonably equivalent to the conditions in facilities that students in district-operated schools attend. For use of the facilities, school districts may charge charter schools no more than a pro-rata share of district facilities costs paid from unrestricted general fund revenues.

At its December 2001 meeting, the State Board approved a Notice of Proposed Rulemaking for proposed regulations that implement the requirements in Education Code section 47614. These proposed regulations (Article 3 [Sections 11969.1 through 11969.9], Subchapter 19, Chapter 11, Division 1 of Title 5 of the California Code of Regulations) define terms, establish procedures and timelines, and set reimbursement rates for over-allocated space. The proposed regulations approved at the December meeting do not, however, include procedures for resolving disputes between school districts and charter schools regarding the implementation of Education Code section 47614.

The proposed regulation that is the subject of this Notice of Proposed Rulemaking would amend the procedures and timelines section of the previously proposed regulations (Section 11969.9) to add two new subdivisions regarding dispute resolution.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Cost to any local agency or school district that must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary cost or savings imposed upon local agencies: None

Cost or savings in federal funding to the state: None

Cost impact on representative private person or business: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Impact on Business: The State Board has made an initial determination that the proposed regulatory changes will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Significant effect on housing costs: The State Board has made an initial determination that the proposed regulatory action would not affect housing costs.

Effect on small business: None, because these regulations are directed to local educational agencies which are not small businesses.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the State Board must determine that no reasonable alternative considered by the State Board or that has otherwise been identified and brought to the attention of the State Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The purpose of the proposed regulation is to provide guidance on dispute resolution regarding facilities for charter schools. The State Board does not believe that existing law absent this regulation achieves that objective. Moreover, the State Board has been unable to identify any alternative to the proposed regulation that achieves the objective. The State Board invites interested persons to present statements or arguments regarding alternatives to the proposed regulation at the above-mentioned hearing or during the written comment period.

**ASSESSMENT REGARDING CREATION OR  
ELIMINATION OF JOBS IN CALIFORNIA**

The State Board has made an assessment and determined that the adoption of the proposed regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

**CONTACT PERSONS**

Inquiries concerning the substance of the proposed action should be directed to:

Carol Bingham  
School Fiscal Services Division  
California Department of Education  
560 J Street, Suite 150  
P. O. Box 944272  
Sacramento, California 94244-2720  
(916) 324-4728

Requests for a copy of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other technical information upon which the rulemaking is based should be directed to:

Pat McGinnis, Regulations Adoption Coordinator  
California Department of Education  
721 Capitol Mall, Room 552  
P. O. Box 944272  
Sacramento, California 94244-2720  
Telephone: (916) 657-4669  
FAX number: (916) 657-3844

Or:

Debra Strain, Regulations Analyst  
Telephone: (916) 657-2453  
FAX number: (916) 657-3844

**AVAILABILITY OF STATEMENT OF REASONS  
AND TEXT OF PROPOSED REGULATIONS**

The Regulation Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office, at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. A copy may be obtained by contacting the Regulation Adoption Coordinator at the address or telephone number listed above or accessing the California Department of Education's website at <http://www.cde.ca.gov/regulations>. Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the Audit Response Coordinator or viewed on the website.

**AVAILABILITY OF CHANGED  
OR MODIFIED TEXT**

Following the public hearing, the State Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly indicated, will be made available to the public for at least 15 days prior to the date on which the State Board adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of the Regulation Adoption Coordinator at the address indicated above. The State Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

**TITLE 5. SUPERINTENDENT OF  
PUBLIC INSTRUCTION**

**NOTICE OF PROPOSED RULEMAKING**

**Desired Results Regulations**

The State Superintendent of Public Instruction (Superintendent) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

**PROPOSED REGULATORY ACTION**

The Superintendent proposes to amend Section 18023 of Chapter 19, Subsection 2, Article 1, and Sections 18272, 18273, 18274, 18275, 18279, 18280, and 18281 of Chapter 19, Subchapter 12, Article 2, pertaining to Child Care and Development Programs, Desired Results.

**PUBLIC HEARING**

The Superintendent will hold a public hearing starting at 11:00 a.m. on Monday, April 29, 2002, at 721 Capitol Mall, Room 556-B. The room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Superintendent requests that any person desiring to present statements or arguments orally notify the agency of such intent. No oral statements will be accepted subsequent to this public hearing.

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Superintendent. All written comments must be received no later than the close of the public hearing scheduled to start at 11:00 a.m. on April 29, 2002. Requests to present



oral statements at the public hearing or written comments for the Superintendent's consideration should be directed to:

Pat McGinnis, Regulations Adoption Coordinator  
 California Department of Education  
 721 Capitol Mall, Room 552  
 P. O. Box 944272  
 Sacramento, California 94244-2720  
 Telephone: (916) 657-4669  
 FAX number: (916) 657-3844  
 E-mail: pmcginni@cde.ca.gov

#### AUTHORITY AND REFERENCE

Education Code section 8203 requires that the State Superintendent of Public Instruction develop standards for the implementation of quality programs for child care and development programs operated pursuant to Chapter 2 of Part 6 of Division 1 of the Education Code.

Education Code section 8261 requires that the State Superintendent of Public Instruction adopt rules and regulations that provide for a contract monitoring system to ensure that agencies expend state funds in accordance with the provisions of their contracts in programs operated pursuant to Chapter 2 of Part 6 of Division 1 of the Education Code.

References: Section 18023: section 8261 (a)(2), Education Code. Section 18272: section 8203, Education Code. Section 18273: section 8203, Education Code. Section 18274: sections 8203, 8208, 8244, 8261, 8360.1, Education Code. Section 18275: sections 8203 and 8261, Education Code. Section 18279: section 8203 and 8261, Education Code. Section 18280: section 8203, Education Code. Section 18281: section 8203, Education Code.

#### INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Education Code section 8203 requires that the State Superintendent of Public Instruction develop standards for the implementation of quality programs for child care and development programs operated pursuant to Chapter 2 of Part 6 of Division 1 of the Education Code.

Education Code section 8261 requires that the State Superintendent of Public Instruction adopt rules and regulations which provide for a contract monitoring system to ensure that agencies expend state funds in accordance with the provisions of their contracts in programs operated pursuant to Chapter 2 of Part 6 of Division 1 of the Education Code.

Title 5, California Code of Regulations, section 18023 requires regular compliance reviews of contracted child care and development programs. Section 18023 of the proposed regulations specifies that a standard contract monitoring review document pre-

scribed by the California Department of Education will be used in the reviews.

Title 5, California Code of Regulations, section 18270 et seq. provides standards for certain program quality indicators. Sections 18272 (Developmental Profile), 18273 (Education Program), 18274 (Staff Development), 18275 (Parent Involvement and Education), 18279 (Program Self-Evaluation Process), 18280 (Parent Survey), and 18281 (Environment Rating Scale) of the proposed regulations expand and clarify program quality indicators and prescribe specific measures and instruments to be used in program quality reviews.

The proposed regulations combine contract compliance monitoring and program quality monitoring into one review process using standardized procedures, measures, and instruments. The proposed regulations also allow for accountability of funds spent by contracted child care and development programs, provide for uniformity of measures, and gauge child and family progress toward achievement of desired results.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: None

Other non-discretionary cost or savings imposed upon local agencies: None

Cost or savings in federal funding to the state: None

Cost impact on representative private person or business: The Superintendent is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Impact on Business: The Superintendent has made an initial determination that the proposed regulatory changes will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Significant effect on housing costs: The superintendent has made an initial determination that the proposed regulatory action would not affect housing costs.

Effect on small business: None.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Superintendent must determine that no reasonable alternative considered by the Superintendent or that has otherwise been identified and brought to the attention of the Superintendent



would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The purpose of the proposed regulations is to provide guidance on the administration of the More-over, the Superintendent has been unable to identify any alternative to the proposed regulations that achieves the objective. The Superintendent invites interested persons to present statements or arguments regarding alternatives to the proposed regulations at the above-mentioned hearing or during the written comment period.

#### **ASSESSMENT REGARDING CREATION OR ELIMINATION OF JOBS IN CALIFORNIA**

The Superintendent has made an assessment and determined that the adoption of the proposed regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. No Report Required.

#### **CONTACT PERSONS**

Inquiries concerning the substance of the proposed action should be directed to:

Jane Maxwell, Child Development Consultant  
California Department of Education,  
Child Development Division  
560 J Street, Suite 220  
P.O. Box 944272  
Sacramento, California 94244-2720  
Telephone (916) 322-4855  
FAX number (916) 323-6853

Requests for a copy of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based should be directed to:

Pat McGinnis, Regulations Adoption Coordinator  
California Department of Education  
721 Capitol Mall, Room 552  
P. O. Box 944272  
Sacramento, California 94244-2720  
Telephone: (916) 657-4669  
FAX number: (916) 657-3844

Or:

Janis Miller, Regulations Analyst  
Telephone: (916) 657-2453  
FAX number: (916) 657-3844

#### **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Regulation Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her

office, at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulation Adoption Coordinator at the address or telephone number listed above or accessing the California Department of Education's website at <http://www.cde.ca.gov/regulations>. Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the Audit Response Coordinator or viewed on the website.

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

Following the public hearing, the Superintendent may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly indicated, will be made available to the public for at least 15 days prior to the date on which the Superintendent adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of the Regulation Adoption Coordinator at the address indicated above. The Superintendent will accept written comments on the modified regulations for 15 days after the date on which it is made available.

### **TITLE 8. AGRICULTURAL LABOR RELATIONS BOARD**

#### **NOTICE OF PROPOSED REGULATORY ACTION TO IMPLEMENT SENATE BILL 1198**

Notice is hereby given that the Agricultural Labor Relations Board (ALRB or Board), pursuant to the authority vested in it by section 1144 of the Labor Code to make, amend, or rescind rules and regulations as may be necessary to implement, interpret, and make specific the provisions of the Agricultural Labor Relations Act (ALRA) (Labor Code sec. 1140, et seq.), proposes to adopt a regulation to implement Senate Bill 1198 (Agriculture Employee Relief Fund), which was filed with the Secretary of State on October 1, 2001 and became effective on January 1, 2002. The Board's regulations are codified in Title 8, California Code of Regulations, section 20100, et seq. The proposed regulation adopting Senate Bill 1198 will appear as section 20299. The proposed regulation is described below in the Informative Digest. An initial statement of reasons for adoption of this regulation, along with the text of proposed regulation, has been prepared by the ALRB and is available upon request by contacting J. Antonio Barbosa, Executive Secretary, Agricultural Labor Relations Board,

915 Capitol Mall, Third Floor, Sacramento, CA 95814, (916) 653-3741, Fax: (916) 653-8750, e-mail: [jbarbosa@alrb.ca.gov](mailto:jbarbosa@alrb.ca.gov). This notice, as well as the initial statement of reasons and text of the proposed regulation, also may be found on the Board's website at [www.alrb.ca.gov](http://www.alrb.ca.gov). The final statement of reasons, once it has been prepared and submitted to the Office of Administrative Law, shall be available in the same manner as the initial statement of reasons.

**The ALRB invites all interested persons to attend a public hearing on the proposed regulatory change. The hearing shall begin at 10:00 a.m. on Wednesday, May 8, 2002, and continue until all those present that wish to provide testimony have had the opportunity to do so. The hearing will be held at the Employment Development Department, 722 Capitol Mall, first floor, Room # 1098 West, Sacramento, California.** Any person wishing to testify at the hearing is requested to notify the Executive Secretary as early as possible to facilitate the orderly scheduling of witnesses and allow sufficient time to make any special arrangements that may be necessary. The written comment period shall close at 5:00 p.m. on Wednesday, May 1, 2002. Written comments must be received at ALRB headquarters at the address listed above by close of the comment period or provided in person at the hearing.

#### ADOPTION OF PROPOSED REGULATION

After the public hearing closes, the Board will consider all public comment, written and oral, and decide whether to make any changes to the proposed regulation. The Board may adopt the proposed regulation if no substantial changes are made. If the Board decides to make substantial changes that are "sufficiently related" to the initial proposal, the public will be given notice of those changes and will be given at least 15 days to provide comment. If the Board decides to make "major" changes to the proposal that are "not sufficiently related to" the initial proposal, a new notice of proposed action will issue allowing for a new 45 day comment period.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

#### **Adopt Section 20299. Agricultural Employee Relief Fund.**

On January 1, 2002, Senate Bill 1198 took effect. This legislation establishes the Agricultural Employees Relief Fund (Fund), and provides that where the Board orders monetary relief and, despite diligent efforts, employees to whom the monies are owed cannot be located within two years after collection of the monies on their behalf, such monies will be deposited in the Fund. The Fund will then be used to pay employees the unpaid balance of monetary relief

ordered by the Board in cases where the Board determines that collection of the full amount owed by the employer is not possible.

The legislation does not provide any procedures for administering the Fund. The types of cases that meet the statutory criteria for pay out from the Fund, the mechanism for making a case eligible for pay out from the Fund, and the distribution scheme for monies in the Fund are just a few of the fundamental issues that require rules of general application to implement, interpret, and make specific the general prescriptions of Senate Bill 1198. Therefore, implementing regulations are necessary to enable the ALRB to administer the Fund.

The proposed regulation provides that Regional Directors who have good cause to believe that further collection of monies owed by an employer is not possible shall file a motion with the Board to make the case eligible for pay out from the Fund. Once eligibility is granted, it shall continue for five years. Within 90 days of the end of each fiscal year, the Board will calculate the amounts to be distributed from the Fund to each eligible employee. The calculation will be done as follows. The total amount of unallocated money in the Fund shall be divided by the aggregated total of the amounts owing to eligible employees. The resulting ratio shall be multiplied by the amount owing to each eligible employee to determine the amount to be distributed to each eligible employee. However, if the ratio is greater than one, it shall be deemed to be one for the purpose of calculating the amounts to be distributed and any monies in excess of the amounts necessary for distribution shall remain in the Fund for future distributions. For the purpose of the above calculation, the "amount owing to each eligible employee" shall not include any amounts allocated to the employee in previous fiscal years. In no event shall an employee be paid an amount from the Fund exceeding the amount owed but not collected from his or her employer.

#### RULEMAKING FILE

Pursuant to Government Code sections 11346.5 and 11347.3, the Board shall maintain a rulemaking file containing all materials considered in the rulemaking process.

The file currently contains:

1. A copy of this notice
2. A copy of the Initial Statement of Reasons and Text of the Proposed Regulation

As other materials are received, such as written comments, studies, reports, etc., they will be added to the rulemaking file. The file is available for inspection at the headquarters office of the ALRB, 915 Capitol Mall, Third Floor, Sacramento, CA, during normal business hours.

**ALTERNATIVES TO PROPOSED ACTION**

The Administrative Procedure Act requires that the Board, in taking any regulatory action, determine that no alternative considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**LOCAL MANDATE STATEMENT**

The proposed regulatory changes would not impose any mandate on local agencies or school districts.

**IMPACT STATEMENTS**

- A. Estimated fiscal impact on local government or school districts: None.
- B. With the exception of the cost of administering the Agricultural Employee Relief Fund, which the ALRB believes may be absorbed within its current budget, the proposed changes would result in no cost or savings to any state agency, or cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of the Government Code, nor impose other nondiscretionary cost or savings on local agencies or effect cost or savings in federal funding.
- C. Fiscal effect on private persons or businesses directly affected: No increase in costs.
- D. The proposed changes would have no effect on small business because the changes impose no new burdens upon parties appearing before the Board.
- E. The proposed changes would have no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- F. The proposed changes would have no effect on the creation or elimination of jobs within the State of California, no effect on the creation of new businesses or the elimination of existing businesses within the State of California, and no effect on the expansion of businesses currently doing business within the State of California.
- G. The ALRB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**INQUIRIES**

Any inquiries concerning any aspect of the proposed regulatory action noticed herein should be directed to J. Antonio Barbosa, Executive Secretary, Agricultural Labor Relations Board, 915 Capitol Mall,

Third Floor, Sacramento, CA 95814, (916) 653-3741, Fax: (916) 653-8750, e-mail: [jbarbosa@alrb.ca.gov](mailto:jbarbosa@alrb.ca.gov) or Joseph A. Wender, Jr., Senior Board Counsel, same address and fax number as above, (916) 653-4054, e-mail: [jwender@alrb.ca.gov](mailto:jwender@alrb.ca.gov). Questions concerning the substance of the proposed amendments may be directed to Mr. Wender.

**TITLE 9. DEPARTMENT OF  
ALCOHOL AND DRUG PROGRAMS**

**NOTICE OF RULEMAKING AND PUBLIC  
COMMENT PERIOD**

NOTICE IS HEREBY GIVEN that the California Department of Alcohol and Drug Programs proposes to amend its conflict of interest code, contained in Section 9100, Title 9, California Code of Regulations.

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

The Political Reform Act, (Section 81000 et seq. of the Government Code), requires each state and local government agency to adopt and promulgate a conflict of interest codes, identifying those classifications of employees required to complete a statement of economic interest. The Department's conflict of interest code is contained in Section 9100, Title 9 of the California Code of Regulations (CCR).

The Department is updating its conflict of interest code by repealing those classifications that do not make independent decisions or enter into independent negotiations, and adding new classifications which make independent decisions or enter into independent negotiations.

**AUTHORITY**

This regulation is being adopted pursuant to Sections 87300 and 87306 of the Government Code, and Section 11755 of the Health and Safety Code.

**REFERENCE**

The statutory references for this regulatory action are Sections 87300 through 87302 and 87306 of the Government Code.

**FISCAL IMPACT STATEMENTS**

Costs or Savings in Federal Funding to the State: No costs or savings are anticipated.

Costs or Savings to Any State Agency: No costs or savings are anticipated.

Costs or Savings to Any Local Agency or School District: No costs or savings are anticipated.

Nondiscretionary Costs or Savings Imposed on Local Agencies: This regulatory action will not result in any nondiscretionary costs or savings to local agencies.



Local Mandate Determination: The Department has determined that this regulatory action will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with Section 17500), Division 4 of the Government Code.

Cost Impacts on Representative Private Persons or Businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Business: The Department does not anticipate any adverse economic impact on business because this regulation affects only employees of the Department.

The Department has made an initial determination that this regulatory action will not have a significant statewide adverse economic impact directly affecting businesses. This regulatory action will not affect the ability of California businesses to compete with businesses in other states. This regulatory action will not affect the creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

Effect on Small Businesses: The proposed regulatory action will not affect small businesses as defined in Government Code Section 11342.610. The Department has determined that this regulation will result in no cost or savings to small businesses because the regulation affects on employees of the Department.

Effect on Housing Costs: This regulatory action will not affect housing costs in any way.

#### WRITTEN COMMENT PERIOD

Any interested person or his authorized representative may submit written comments on the proposed regulatory action. **The written comment period closes at 5 p.m. on April 29, 2002.** Please submit any written comments before that time. The Department cannot accept written comments after the close of the public comment period. Please send written comments to Mary Conway, Regulations Coordinator, Department of Alcohol and Drug Programs, 1700 K Street, Sacramento, CA 95814. Comments may also be submitted by fax at (916) 323-5873 or e-mail at [MCONWAY@ADP.STATE.CA.US](mailto:MCONWAY@ADP.STATE.CA.US).

#### SCOPE OF TESTIMONY

Section 11346.8(c) of the Government Code prohibits the Department from making any changes to the text of a noticed regulation after the 45-day public comment period, unless the change was so sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed action. Therefore

please make your comments specific to the regulation discussed in this notice. Please indicate the number of the section you would like changed, the specific change requested, and the reason why you would like the section changed. Since the Department cannot make changes to sections of regulation which were not mentioned in this public notice, during the public comment period the Department will not consider testimony regarding changes which are outside the scope of this notice. If you wish to request the Department to amend, adopt, or repeal additional sections of regulation, the Department is required to consider those changes in a separate regulatory action.

#### PUBLIC HEARING

The Department has not scheduled a public hearing on the proposed regulatory action. However, if any person wishes to submit oral comments, the Department will schedule a public hearing upon receipt of that person's written request. Such request must be received at the address shown above no later than 15 days prior to the close of the written comment period.

#### CONSIDERATION OF ALTERNATIVES

Pursuant to Section 11346.5(a)(13) of the Government Code, the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which this regulatory action was taken. The Department must also determine that no alternative would be as effective and less burdensome to affected private persons than the regulatory action taken. The Department will consider any alternatives presented during the public comment period.

#### ADDITIONAL CHANGES

The Department may modify the proposed regulation in response to testimony received during the 45-day public comment period, so long as any additional changes made are sufficiently related to the proposed regulatory action and within the scope of this notice. The Department will make available to any interested persons, for at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation, the full text of any regulation which is changed or modified from the express terms to this regulatory action. The Department will mail a copy of the additional changes to any person who testified or submitted comments during the public hearing (if one is requested), who submitted written comments during the 45-day public comment period, or who requested copies of additional changes. Please

call the Department's regulations coordinator at (916) 327-4742 if you wish to receive a copy of any additional changes and you do not plan to present comments regarding the proposed regulatory action.

**AVAILABILITY OF TEXT OF REGULATIONS  
AND INITIAL STATEMENT OF REASONS**

The Department has prepared and has available for review upon request the text of the proposed regulations discussed in this notice, written in plain English; an initial statement of reasons, explaining the necessity for each regulatory change; and all the information upon which the proposed regulations were based. To obtain a copy, please call Mary Conway at (916) 327-4742 or write to her at the address shown on the first page of this notice. If you received this public notice in the mail or by e-mail, the text of the proposed regulation and the initial statement of reasons were enclosed. The proposed regulations and initial statement of reasons are also available on the Department's website at <http://www.adp.ca.gov>.

**PERSON TO CONTACT FOR  
ADDITIONAL INFORMATION**

The Department's contact for this regulation package is Mary Conway, the Department's Regulations Coordinator, at (916) 327-4742. The backup contact person is Kathy King at (916) 322-6470.

**FINAL STATEMENT OF REASONS**

After the close of the 45-day public comment period, the Department will summarize and respond to all public comments in a written final statement of reasons. To obtain a copy of the final statement of reasons, please call Mary Conway at (916) 327-4742. The final statement of reasons will also be posted on the Department's website at <http://www.adp.ca.gov>.

**TITLE 10. DEPARTMENT  
OF INSURANCE**

**NOTICE OF PROPOSED ACTION AND  
NOTICE OF PUBLIC HEARING**

**SUBJECT OF HEARING**

**[RH399]**

A hearing will be held regarding proposed changes to the fair claims settlement practices regulations found at California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5, Sections 2695.1 through 2695.14.

**AUTHORITY AND REFERENCE**

The Insurance Commissioner proposes to adopt, amend and repeal specified portions of the subject regulations under the authority of Insurance Code Sections 790.10, 12921, and 12926. The Commission-

er's decision on the proposed changes to the regulations will implement, interpret and make specific provisions of Insurance Code Section 790.03(h).

**HEARING DATE AND LOCATION**

Notice is hereby given that public hearings will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to these regulations as follows:

**Date and time: May 8, 2002  
10:00 am**

**Location: 45 Fremont Street  
22nd Floor Hearing Room  
San Francisco, CA 94105**

**Date and time: May 9, 2002  
10:00 am**

**Location: Department of Insurance  
Hearing Room  
Ronald Reagan State Office Building  
300 South Spring Street, 1st Floor  
Los Angeles, California 90013**

**PRESENTATION OF WRITTEN AND/OR  
ORAL COMMENTS; CONTACT PERSONS**

All persons are invited to present oral and/or written comments at the scheduled public hearings. Written comments not presented should be addressed to the following contact person:

Risa Salat-Kolm, Senior Staff Counsel  
California Department of Insurance  
45 Fremont Street, 21st Floor  
San Francisco, CA 94105  
Telephone: (415) 538.4127

Questions regarding the hearing, comments, or the substance of the proposed action should be addressed to the above contact person. If she is unavailable, inquiries may be addressed to the following backup contact person:

Cindy A. Ossias, Senior Staff Counsel  
45 Fremont Street, 21st Floor  
San Francisco, CA 94105  
Telephone: (415) 538.4124

**DEADLINE FOR WRITTEN COMMENTS**

All written materials, unless submitted at the hearings, must be received by the Insurance Commissioner, c/o the contact person at the address listed above, no later than **5:00** on May 9, 2002. Any written materials received after that time will not be considered.

**COMMENTS TRANSMITTED BY  
E-MAIL OR FACSIMILE**

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: [salat-kolmr@insurance.ca.gov](mailto:salat-kolmr@insurance.ca.gov).



The Commissioner will also accept written comments transmitted by facsimile provided they are sent to the following facsimile number: (415) 904-5490. **Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline for written comments set forth above.**

#### ACCESS TO HEARING ROOMS

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed below) for these hearings in order to make special arrangements, if necessary.

#### ADVOCACY OR WITNESS FEES

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Chapter 5, Subchapter 4.5, in connection with their participation in this matter. Interested persons should contact the Office of the Public Advisor at the following address, in order to inquire about the appropriate procedures:

California Department of Insurance  
Office of the Public Advisor  
300 Capitol Mall, 17th Floor  
Sacramento, CA 95814  
(916) 492-3559

A copy of any written materials submitted to the Public Advisor regarding this rulemaking must also be submitted to the contact person for this hearing, listed above. Please contact the Office of the Public Advisor for further information.

#### INFORMATIVE DIGEST

##### SUMMARY OF EXISTING REGULATIONS AND POLICY STATEMENT OVERVIEW

California Insurance Code Section 790.03(h) sets forth sixteen claims settlement practices which, if knowingly committed or committed with such frequency as to indicate a general business practice, are held to be unfair claims settlement practices. The Commissioner is empowered under Insurance Code Section 790.10 to promulgate rules and regulations, and amendments and additions thereto, as are necessary to administer Section 790.03(h) and related sections. The Commissioner has previously promulgated regulations found at California Code of Regulations, Title 10, Section 5, Subchapter 7.5, Sections 2695.1 through 2695.14. The Commissioner has determined that certain modifications to these regulations are necessary in order to effectively administer

Insurance Code Section 790.03(h). The amendments to the regulations would do the following:

- 1) Reorganize the subsections so that they are easier to understand and use.
- 2) Add or delete language for reasons of grammar or clarity.
- 3) Eliminate unnecessary portions of the regulations in cases where existing laws adequately cover the subject area.
- 4) Add subsections or portions of subsections where necessary to set forth reasonable standards of conduct in the handling of claims.

#### EFFECT OF PROPOSED ACTION

The major effects of the regulations are as follows:

##### Section 2695.1(c)—Surety Claims (Repeal)

Existing subsection 2695.1(c) specifies that certain regulations do not apply to the handling or settling of claims brought under surety bonds. The proposed change is to repeal this subsection. Even though a unique tripartite relationship exists between the surety insurer, the beneficiary of the surety bond, and the principal, the claims handling process is no more cumbersome with respect to the processing of these claims than in the more traditional first or third party claims setting. As such, certain minimum standards set forth in the regulations should and do apply to claims brought under surety bonds. For example, section 2695.7 of the regulations does not impede the surety's ability to conduct its business efficiently and fairly and in accordance with California Insurance Code section 790.03(h).

##### Section 2695.1(b) and (c)—Home Protection (Amend and Adopt)

The proposed amendments clarify and codify the Department's determination that the Fair Claims Settlement Practices Regulations apply, as a matter of law, to claims brought under home protection contracts written by home protection companies (and respond directly to a decision of an administrative law judge to the effect that the provisions of the Fair Claims Settlement Practices Regulations do not apply to home protection companies or home protection contracts). There is no legal or equitable justification for treating home protection contract claims differently than other similar claims, or home protection companies differently than similarly situated licensees.

##### Section 2695.1(e)—Minimum Claims Standards (Adopt)

Since the adoption of these regulations in 1993, the Department has witnessed several instances of insurers developing insurance contract language in order to circumvent one or more of these regulations. As an example, even though the regulations require an

insurer to include sales tax in an automobile total loss settlement, some insurers placed into their contract a provision that precludes payment of sales tax. If insurers are permitted to circumvent the regulations by contracting certain consumer protections out of the insurance policy, it defeats the purpose of having minimum claims handling standards. In order to maintain the integrity of these regulations and create uniformity in the claims handling practices of insurers, subsection (d) was adopted.

**Section 2695.8. Additional Standards Applicable to Automobile Insurance.**

The regulations dealing with automobile insurance claims underwent the most change during this amendment process. Automobile insurance is the most prevalent coverage and automobile insurance claims affect the most consumers in California. The Department receives thousands of consumer complaints each year providing substantial input from insurers and consumers on all aspects of automobile insurance claims. The amendments proposed to this section are a direct result of this input.

In reference to total loss claims, the significant changes include (1) requiring third party claims to be held to the minimum standards set forth in the regulations; (2) clarifying the principle that sales tax and license fees are a necessary component of any total loss settlement; and (3) qualifying the definition of "comparable vehicle." See Section 2695.8(b).

Other changes to this section include setting minimum standards for insurers that direct, by insurance contract, that an insured utilize a network of specific auto body repair shops. These insurers charge a 20% co-payment penalty if the insured has the auto repaired in a non-network shop. The unique nature of these contracts requires particular disclosure and claim settlement standards. See Section 2695.8(g).

**Section 2695.85. Auto Body Repair Consumer Bill of Rights**

This new section is adopted under the authority of implementing recently enacted Senate Bill SB 1988, which became effective January 1, 2001 and created new California Insurance Code Sections 1874.85 and 1874.87. Under California Insurance Code Section 1874.87, the Department was required to develop an Auto Body Repair Consumer Bill of Rights as a standardized form. This standardized form was developed after consultation with industry and consumer groups. Insurers are now required to provide their insureds with this form. This section interprets and clarifies the new insurance code section and answers some of the questions brought up by the industry. This section also dictates the exact language to be used in the standardized form.

**Section 2695.9. Additional Standards Applicable to First Party Residential and Commercial Property Insurance**

Major amendments to this section include (1) prohibition of an insurer's withholding of a general contractor's overhead and profit if those costs are likely to be incurred; (2) providing minimum standards for estimating property damages and directing insureds to insurer-chosen contractors; and (3) addressing the problem of delay in the appraisal process caused by insurers that request discovery, subpoenas of evidence, expert testimony and other tools associated with civil litigation.

**Section 2695.12. Penalties**

This section is currently entitled "Noncompliance and Penalties". The major change made to this section reflects the position that while certain factors are relevant to mitigate the penalties to be assessed, these factors do not render a non-compliant act compliant. Another change is to repeal subsection 2695.12(a) as the term "knowingly" is defined in subsection 2695.2(1) of the regulations.

**MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

The proposed regulations do not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

**COST OR SAVINGS TO STATE/LOCAL AGENCY OR SCHOOL DISTRICT OR IN FEDERAL FUNDING**

The Commissioner has determined that there will be no cost or savings, discretionary or nondiscretionary, to any local agency, state agency or school district from the proposed regulations, and that the proposed regulation will not affect federal funding to the State.

**ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE**

The Commissioner has made an initial determination that the proposed amendments may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The types of businesses that may be affected are insurers and claims agents as defined under the current regulations. There will be additional recordkeeping requirements imposed upon certain insurers that have not previously been subject to these regulations. The Commissioner has not considered proposed alternatives that would lessen any adverse

economic impact on business and invites interested parties to submit proposals. Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

#### POTENTIAL COST IMPACT ON PRIVATE PERSONS OR ENTITIES/BUSINESSES

The Commissioner is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### FINDING OF NECESSITY

The Commissioner finds that it is necessary for the welfare of the people of the state that the regulations apply to businesses.

#### EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of new businesses, and the expansion of businesses currently operating in the state. The Commissioner does not foresee that the proposed regulations will have an impact on any of the above but invites interested parties to comment on this issue.

#### IMPACT ON HOUSING COSTS

The matters proposed herein will have no significant effect on housing costs.

#### ALTERNATIVES

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purposes for which the regulations are imposed or would be as effective and less burdensome to affected private persons than the proposed regulations. The Commissioner invites public comment on alternatives to the regulations.

#### IMPACT ON SMALL BUSINESS

The Commissioner has determined that the proposed amendments may affect small businesses to the extent independent insurance adjusters (as opposed to those who are insurance company employees) qualify

as small businesses. These individuals and entities will be required to comply with the applicable amendments.

#### COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

#### TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

The Department has prepared an initial statement of reasons that sets forth the reasons for the proposed changes to the regulations. Upon **written or e-mailed** request, the initial statement of reasons will be made available for inspection and copying. Written requests for the initial statement of reasons or questions regarding this proceeding should be directed to the contact person listed above. Upon **written or e-mailed** request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Written requests for the final statement of reasons should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available for inspection and copying **by prior appointment** at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

#### AUTOMATIC MAILING

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulations, will automatically be sent to all persons on the Insurance Commissioner's mailing list.

#### WEBSITE POSTINGS

Documents concerning this proceeding are available on the Department's website. To access them, go to <http://www.insurance.ca.gov>. Find near the top of the page the major heading 'Protecting Consumers.' In this section, scroll down until you see the subheading 'BE INFORMED.' Click on the nearby 'Search for Proposed Regulations' link. When the "Search or Browse for Documents for Proposed Regulations" screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.



To search, enter 'RH399' (the Department's regulation file number for these regulations) in the search field. Alternatively, search using as your search term the California Insurance Code number of a code section that the regulations implement (for instance, "790.03"), or search by keyword ('fair,' for example, or 'settlement'). Then, click on the "Submit" button to display links to the various filing documents.

To browse, click on the "Browse All Regulations" button near the bottom of the screen. A list of the names of regulations for which documents are posted will appear. Find in the list the "Fair Claims Settlement Practices" link, and click it. Links to the documents associated with these regulations will then be displayed.

#### **MODIFIED LANGUAGE**

If the regulations adopted by the Department differ but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these regulations prior to adoption from the contact person listed above.

### **TITLE 14. MINING AND GEOLOGY BOARD**

#### **NOTICE OF PROPOSED RULEMAKING**

##### **THE RECLAMATION PLAN**

NOTICE IS HEREBY GIVEN that the State Mining and Geology Board (SMGB) proposes to adopt the regulations described below after considering all comments and recommendations regarding the proposed action.

##### **PROPOSED REGULATORY ACTION**

The SMGB proposes to amend § 3502 of Article 1, the California Code of Regulations (CCR), Title 14, Division 2, Chapter 8, Subchapter 1. This regulation clarifies and makes specific the contents of a reclamation plan required by the Surface Mining and Reclamation Act of 1975 as to the plan objectives, plan elements, adequacy, and scope of application. This regulation also clarifies the requirement that surface mines have one reclamation plan, and describes criteria that must be considered by a local lead agency when making a determination that a proposed or actual change in an mining operation constitutes a substantial deviation from the original operation. Specifically, this regulation addresses PRC §§ 2712, 2756, 2757, 2770, 2772, and 2773.

#### **PUBLIC HEARING AND WRITTEN COMMENT PERIOD**

The SMGB has not scheduled a public hearing to receive comments on this proposed action; however, the SMGB will hold a hearing if it receives a written request for a public hearing from any interested person, or his/her authorized representative, no later than 15 days before the close of the written comment period. The hearing facility will be barrier free in accordance with the Americans with Disabilities Act. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The SMGB requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony.

Any interested person may submit written comments relevant to the proposed regulatory action to the SMGB. The Written Comment Period closes at 5:00 P.M., April 29, 2002. The SMGB will consider only relevant comments received at the SMGB office by that time.

#### **AUTHORITY AND REFERENCE**

The SMGB is proposing to adopt these regulations that amend Article 1, Title 14, Division 2, Chapter 8 of the CCR pursuant to the authority granted in the Surface Mining and Reclamation Act ( SMARA, PRC § 2710 et seq., and specifically PRC § 2755). Reference: Sections 2712 (a), (b) and (c), Sections 2756 through 2757, Section 2770, Section 2772, Section 2773.

#### **INFORMATIVE DIGEST**

SMARA was enacted to ensure that any significant adverse impacts of mining to the environment are prevented or mitigated and public health and safety are protected. Under SMARA, surface mining operators are required to submit to their respective lead agencies (cities and counties) for approval, a plan for reclaiming lands disturbed by mining activities, as well as proof of financial assurances to ensure that those disturbed lands are reclaimed in accordance with the approved reclamation plan. Lead agencies are responsible for ensuring their surface mining operators are in compliance with SMARA's permit, reclamation, and financial assurance requirements. The DOC and the SMGB provide lead agency assistance and oversight.

The proposed amended language to this regulation clarifies and makes specific that each surface mining operation as defined in SMARA (PRC § 2735 and CCR § 3501) shall have no more than one approved reclamation plan applicable to that operation. There

are two exceptions that apply: (1) where a surface mining operation has separate facilities located within different lead agency jurisdictions and where a distinct and significant physical boundary divides the facilities; and, (2) where a surface mining operation currently has in place more than one reclamation plan, those plans may remain in place until a substantial change in the operation is proposed, at which time the multiple plans must be combined into a single reclamation plan. In addition, a set of criteria to be considered by a lead agency when making a determination that a substantial deviation will or has occurred at a mine operation, and therefore requires an amendment to the original reclamation plan, are defined.

These proposed additional regulations do not duplicate or conflict with existing Federal statutes or regulations. Federal surface mining laws do not apply to the issue addressed by these regulations. Also, by Memorandum of Understanding with the Federal Bureau of Land Management, the U. S. Forest Service, the Department of Conservation, and the State Mining and Geology Board, SMARA and federal law are coordinated to eliminate duplication.

#### CEQA COMPLIANCE

The SMGB staff have determined that this rule making project is exempt from the requirements of the California Environmental Quality Act (CEQA) to Title 14, CCR, § 15061(b)(3), no possibility of a significant effect on the environment.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

The SMGB staff has made the following preliminary determinations:

- Mandate on local agencies and school districts: The SMGB staff has determined that adoption of these proposed regulations does not impose any new mandates on local agencies or on local school districts.
- Cost or savings to any State agency: No savings or additional expenses to state agencies are identified.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: The SMGB staff has determined that the adoption of these proposed regulations does not impose any additional cost obligations on local agencies or on local school districts.
- Other non-discretionary cost or savings imposed upon local agencies: No other non-discretionary costs or savings to local agencies have been identified.
- Cost or savings in Federal funding to the State: No costs or savings in Federal funding to the State have been identified.
- Significant statewide adverse economic impact on business including the ability of California businesses to compete with businesses in other states: The SMGB staff has determined that no statewide adverse impacts to California businesses result from the adoption of this proposed regulatory language. These proposed regulations serve to clarify and make specific existing statutory requirements; these proposed regulations do not mandate actions upon businesses, but rather clarify voluntary steps that businesses may take on their own behalf.
- Potential cost impact on private persons or directly affected businesses: The SMGB staff is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. These proposed regulations do not mandate actions upon private persons or businesses, but rather clarify voluntary steps that businesses may take on their own behalf.
- Creation or elimination of jobs in California: The SMGB staff has determined that the adoption of these regulations will not:
  - Create nor eliminate jobs within California;
  - Create new nor eliminate existing businesses within California;
  - Expand businesses currently doing business in California.
- Significant effect on housing costs: The SMGB staff has determined that the adoption of these regulations will have no significant effect on housing costs.
- Adverse effects on small businesses: The SMGB staff has determined that the adoption of these proposed regulations does not adversely affect small businesses. These proposed regulations serve to clarify and make specific existing statutory requirements; these proposed regulations do not mandate actions upon local businesses, but rather clarify voluntary steps that businesses may take on their own behalf.

#### POLICY STATEMENT OVERVIEW

The objective of the proposed regulatory language is to clarify and make specific the contents of a reclamation plan required by the Surface Mining and Reclamation Act of 1975 as to the plan objectives, plan elements, adequacy, and scope of application. Specifically, this regulation addresses PRC §§ 2712, 2756, 2757, 2770, 2772, and 2773.



### **CONSIDERATION OF ALTERNATIVES**

The SMGB must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the SMGB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. SMGB staff has not identified any adverse impacts resulting from these proposed regulations.

No alternatives have been considered by the SMGB that would be more effective in carrying out the purpose for which these regulatory changes are proposed, nor have any other alternatives been proposed that would be as effective and less burdensome to affected private persons, lead agencies, or small businesses.

### **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS**

An interested person may request a copy of the proposed regulations and the Initial Statement of Reasons, or direct questions about the proposed regulations and Initial Statement of Reasons and inspect all supplemental information, upon which the regulation is based, contained in the rulemaking file. The rulemaking file is available for inspection at the SMGB Office at 801 K Street, Room 2436, Sacramento, California, between 9:00 A.M. and 4:00 P.M., Monday through Friday except during state holidays. Copies of the proposed regulations and the Initial Statement of Reasons may be requested by writing to the above address, or viewed on the SMGB's Internet Web Site at: <http://www.consrv.ca.gov/smgb>

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

Following the public comment period, the SMGB may adopt, as final, the proposed regulations substantially as described in this Notice and Informative Digest. Copies of these regulations, as finally adopted, will be sent to all persons on the SMGB's public comment mailing list for this issue and others requesting copies. If, as a result of public comment, substantive changes to these regulations are deemed appropriate, copies of the proposed changes will be sent to all persons who testified at the public hearing or submitted written comments during the comment period or at the public hearing, and to those who have requested copies of information regarding the regulation.

Thereafter, the SMGB will accept written comments for a period of at least 15 days after the date upon which changes were made available. If adopted, the regulations will appear in CCR, Title 14, Division 2,

Chapter 8, Subchapter 1, Article 1, § 3502. A copy of the Final Statement of Reasons may be obtained by contacting the SMGB office as described under the section CONTACT PERSON.

### **CONTACT PERSON**

Statements, arguments or contentions must be submitted in writing in order for them to be considered by the SMGB. To be included in the mailing list and to receive updates on this rulemaking, please contact the SMGB at (916) 322-1082. Please direct all written comments, procedural inquiries and requests for documents to:

Ms. Kit Gonzales, Executive Assistant

(or as a backup)

John G. Parrish, Ph.D., Executive Officer

(for substance questions also)

State Mining and Geology Board

801 K Street, MS 24-05

Sacramento, California 95814

## **TITLE 14. MINING AND GEOLOGY BOARD**

### **NOTICE OF PROPOSED RULEMAKING**

#### **ANNUAL MINE INSPECTIONS**

NOTICE IS HEREBY GIVEN that the State Mining and Geology Board (SMGB) proposes to adopt the regulation described below after considering all comments and recommendations regarding the proposed action.

#### **PROPOSED REGULATORY ACTION**

The SMGB proposes to add § 3504.5 to Article 1 of the California Code of Regulations (CCR), Title 14, Division 2, Chapter 8, Subchapter 1. This regulation clarifies and makes specific the scope, nature and frequency of a surface mine inspection required under Public Resources Code § 2774(b).

#### **PUBLIC HEARING AND WRITTEN COMMENT PERIOD**

The SMGB has not scheduled a public hearing on this proposed action; however, the SMGB will hold a hearing to receive comments if it receives a written request for a public hearing from any interested person, or his/her authorized representative, no later than 15 days before the close of the written comment period. The hearing facility will be barrier free in accordance with the Americans with Disabilities Act. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The SMGB requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony.

Any interested person may submit written comments relevant to the proposed regulatory action to the SMGB. The Written Comment Period closes at 5:00 P.M., April 29, 2002. The SMGB will consider only relevant comments received at the SMGB office by that time.

#### AUTHORITY AND REFERENCE

The SMGB is proposing to adopt these regulations that amend Article 1, Title 14, Division 2, Chapter 8 of the CCR pursuant to the authority granted in the Surface Mining and Reclamation Act (SMARA, PRC § 2710 et seq., and specifically PRC § 2755). Reference: Section 2774 Public Resources Code.

#### INFORMATIVE DIGEST

SMARA was enacted to ensure that any significant adverse impacts of mining to the environment are prevented or mitigated and public health and safety are protected. Under SMARA, surface mining operators are required to submit to their respective lead agencies (cities and counties) for approval, a plan for reclaiming lands disturbed by mining activities, as well as proof of financial assurances to ensure that those disturbed lands are reclaimed in accordance with the approved reclamation plan. Lead agencies are responsible for ensuring their surface mining operators are in compliance with SMARA's permit, reclamation, and financial assurance requirements. The Department of Conservation and the SMGB provide lead agency assistance and oversight.

SMARA requires, under PRC § 2774(b), that not less than annually the lead agency conduct an inspection of each surface mining operation within its jurisdiction to determine if those operations are in compliance with the requirements of SMARA and the lead agency's surface mining ordinance. This proposed regulation clarifies and makes specific the scope, nature, and frequency of surface mine inspections.

This proposed additional regulation does not duplicate or conflict with existing Federal statutes or regulations. Federal surface mining laws do not apply to the issue addressed by these regulations. Also, by Memorandum of Understanding with the Federal Bureau of Land Management, the U. S. Forest Service, the Department of Conservation, and the State Mining and Geology Board, SMARA and federal law are coordinated to eliminate duplication.

#### CEQA COMPLIANCE

The SMGB staff have determined that this rule making project is exempt from the requirements of the California Environmental Quality Act (CEQA) to Title 14, CCR, § 15061(b)(3), no possibility of a significant effect on the environment.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

The SMGB staff has made the following preliminary determinations:

- Mandate on local agencies and school districts: The SMGB staff has determined that adoption of these proposed regulations does not impose any new mandates on local agencies or on local school districts.
- Cost or savings to any State agency: No savings or additional expenses to state agencies are identified.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: The SMGB staff has determined that the adoption of these proposed regulations does not impose any additional cost obligations on local agencies or on local school districts.
- Other non-discretionary cost or savings imposed upon local agencies: No other non-discretionary costs or savings to local agencies have been identified.
- Cost or savings in Federal funding to the State: No costs or savings in Federal funding to the State have been identified.
- Significant statewide adverse economic impact on business including the ability of California businesses to compete with businesses in other states: The SMGB staff has determined that no statewide adverse impacts to California businesses result from the adoption of this proposed regulatory language.
- Potential cost impact on private persons or directly affected businesses: The SMGB staff is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This proposed regulation does not mandate actions upon private persons or businesses, but rather clarifies existing statutory mandates.
- Creation or elimination of jobs in California: The SMGB staff has determined that the adoption of these regulations will not:
  - Create nor eliminate jobs within California;
  - Create new nor eliminate existing businesses within California;
  - Expand businesses currently doing business in California.
- Significant effect on housing costs: The SMGB staff has determined that the adoption of these regulations will have no significant effect on housing costs.

- **Adverse effects on small businesses:** SMGB staff has determined that there is no additional impact on small businesses; this proposed regulation serves to clarify and make specific existing requirements contained in statute. This proposed regulation does not mandate actions upon private persons or businesses, but rather clarifies existing statutory mandates.

#### **POLICY STATEMENT OVERVIEW**

The objective of the proposed regulatory language is to clarify and make specific the scope, nature, and frequency of surface mine inspections required under PRC § 2774(b) as described in the Informative Digest.

#### **CONSIDERATION OF ALTERNATIVES**

The SMGB must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the SMGB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. SMGB staff has not identified any adverse impacts resulting from these proposed regulations.

No alternatives have been considered by the SMGB that would be more effective in carrying out the purpose for which these regulatory changes are proposed, nor have any other alternatives been proposed that would be as effective and less burdensome to affected private persons, lead agencies, or small businesses.

#### **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS**

An interested person may request a copy of the proposed regulations and the Initial Statement of Reasons, or direct questions about the proposed regulations and Initial Statement of Reasons and inspect all supplemental information, upon which the regulation is based, contained in the rulemaking file. The rulemaking file is available for inspection at the SMGB Office at 801 K Street, Room 2436, Sacramento, California, between 9:00 A.M. and 4:00 P.M., Monday through Friday except during state holidays. Copies of the proposed regulations and the Initial Statement of Reasons may be requested by writing to the above address, or viewed on the SMGB's Internet Web Site at: <http://www.consrv.ca.gov/smgb>

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

Following the public comment period, the SMGB may adopt, as final, the proposed regulations substantially as described in this Notice and Informative Digest. Copies of these regulations, as finally adopted, will be sent to all persons on the SMGB's public

comment mailing list for this issue and others requesting copies. If, as a result of public comment, substantive changes to these regulations are deemed appropriate, copies of the proposed changes will be sent to all persons who testified at the public hearing or submitted written comments during the comment period or at the public hearing, and to those who have requested copies of information regarding the regulation.

Thereafter, the SMGB will accept written comments for a period of at least 15 days after the date upon which changes were made available. If adopted, the regulations will appear in CCR, Title 14, Division 2, Chapter 8, Subchapter 1, Article 1, § 3504.5. A copy of the Final Statement of Reasons may be obtained by contacting the SMGB office as described under the section Contact Person.

#### **CONTACT PERSON**

Statements, arguments or contentions must be submitted in writing in order for them to be considered by the SMGB. To be included in the mailing list and to receive updates on this rulemaking, please contact the SMGB at (916) 322-1082. Please direct all written comments, procedural inquiries and requests for documents to:

Ms. Kit Gonzales, Executive Assistant  
(or as a backup)

John G. Parrish, Ph.D., Executive Officer  
(for substance questions also)  
State Mining and Geology Board  
801 K Street, MS 24-05  
Sacramento, California 95814

### **TITLE 14. MINING AND GEOLOGY BOARD**

#### **NOTICE OF PROPOSED RULEMAKING**

##### **DESIGNATION APPEAL PROCEDURES**

NOTICE IS HEREBY GIVEN that the State Mining and Geology Board (SMGB) proposes to adopt the amended regulations described below after considering all comments and recommendations regarding the proposed action.

##### **PROPOSED REGULATORY ACTION**

The SMGB proposes to amend §§ 3626, 3627, and 3628 of Article 4, the California Code of Regulations (CCR), Title 14, Division 2, Chapter 8, Subchapter 1. These regulations clarify and make specific the SMGB's procedures for receiving and hearing petitions submitted pursuant to Public Resources Code (PRC) § 2775 concerning the issuance or denial of a permit by a lead agency to conduct surface mining



operations on lands designated by the SMGB as containing mineral deposits of statewide or regional significance.

#### PUBLIC HEARING AND WRITTEN COMMENT PERIOD

The SMGB has not scheduled a public hearing on this proposed action; however, the SMGB will hold a hearing to receive comments if it receives a written request for a public hearing from any interested person, or his/her authorized representative, no later than 15 days before the close of the written comment period. The hearing facility will be barrier free in accordance with the Americans with Disabilities Act. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The SMGB requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony.

Any interested person may submit written comments relevant to the proposed regulatory action to the SMGB. The Written Comment Period closes at 5:00 P.M., April 29, 2002. The SMGB will consider only relevant comments received at the SMGB office by that time.

#### AUTHORITY AND REFERENCE

The SMGB is proposing to adopt these regulations that amend Article 4, Title 14, Division 2, Chapter 8 of the CCR pursuant to the authority granted in the Surface Mining and Reclamation Act ( SMARA, PRC § 2710 et seq., and specifically PRC § 2755). Reference: Section 2775, Public Resources Code.

#### INFORMATIVE DIGEST

SMARA was enacted to ensure that any significant adverse impacts of mining to the environment are prevented or mitigated and public health and safety are protected. SMARA, also, provides that the production and conservation of the state's mineral resources are to be encouraged. To that end, SMARA provides that the SMGB may, based upon information and recommendations from the State Geologist, designate in regulations specific lands as containing mineral deposits that are economically significant to the local region, or to the state as a whole. (Reference PRC § 2761 et seq.) PRC § 2775 in SMARA provides that an applicant whose request for a permit to conduct surface mining operations on mineral lands designated by the SMGB has been denied by a lead agency, may appeal that denial to the SMGB. Also, any person who may be aggrieved by the granting of a permit by a lead agency to mine on designated mineral lands may appeal the granting of the permit to the SMGB.

The SMGB is authorized under PRC § 2775 to conduct appellate hearings concerning specific lead

agency actions. Article 4 describes the process to be followed for filing and hearing the appeals regarding the issuance or denial of permits to mine on designated mineral lands. The proposed changes to these three sections are to further clarify and make specific the meanings of those sections and the appeals process.

These proposed additional regulations do not duplicate or conflict with existing Federal statutes or regulations. Federal surface mining laws do not apply to the issue addressed by these regulations. Also, by Memorandum of Understanding with the Federal Bureau of Land Management, the U. S. Forest Service, the Department of Conservation, and the State Mining and Geology Board, SMARA and federal law are coordinated to eliminate duplication.

#### CEQA COMPLIANCE

The SMGB staff have determined that this rule making project is exempt from the requirements of the California Environmental Quality Act (CEQA) to Title 14, CCR, § 15061(b)(3), no possibility of a significant effect on the environment.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

The SMGB staff has made the following preliminary determinations:

- Mandate on local agencies and school districts: The SMGB staff has determined that adoption of these proposed regulations does not impose any new mandates on local agencies or on local school districts.
- Cost or savings to any State agency: No savings or additional expenses to state agencies are identified.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: The SMGB staff has determined that the adoption of these proposed regulations does not impose any additional cost obligations on local agencies or on local school districts.
- Other non-discretionary cost or savings imposed upon local agencies: No other non-discretionary costs or savings to local agencies have been identified.
- Cost or savings in Federal funding to the State: No costs or savings in Federal funding to the State have been identified.
- Significant statewide adverse economic impact on business including the ability of California businesses to compete with businesses in other states: The SMGB staff has determined that no statewide adverse impacts to California businesses result from the adoption of this proposed regulatory language.

- Potential cost impact on private persons or directly affected businesses: The SMGB staff is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. These proposed regulations do not mandate actions upon private persons or businesses, but rather clarify voluntary steps that businesses or persons may take on their own behalf.
- Creation or elimination of jobs in California: The SMGB staff has determined that the adoption of these regulations will not:
  - Create nor eliminate jobs within California;
  - Create new nor eliminate existing businesses within California;
  - Expand businesses currently doing business in California.
- Significant effect on housing costs: The SMGB staff has determined that the adoption of these regulations will have no significant effect on housing costs.
- Adverse effects on small businesses: The SMGB staff has determined that the adoption of these proposed regulations does not adversely affect small businesses. These proposed regulations serve to clarify and make specific existing SMGB procedures that are authorized in statute; these proposed regulations do not mandate actions upon local businesses, but rather clarify voluntary steps that businesses which are in violation of the law may take on their own behalf.

#### POLICY STATEMENT OVERVIEW

The objective of the proposed regulatory language is to clarify and make specific the conditions and procedures under which the SMGB receives and hears petitions submitted pursuant to PRC § 2774.2 concerning the issuance of an Administrative Penalty by the Director of the DOC.

#### CONSIDERATION OF ALTERNATIVES

The SMGB must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the SMGB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. SMGB staff has not identified any adverse impacts resulting from these proposed regulations.

No alternatives have been considered by the SMGB that would be more effective in carrying out the purpose for which these regulatory changes are proposed, nor have any other alternatives been

proposed that would be as effective and less burdensome to affected private persons, lead agencies, or small businesses.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

An interested person may request a copy of the proposed regulations and the Initial Statement of Reasons, or direct questions about the proposed regulations and Initial Statement of Reasons and inspect all supplemental information, upon which the regulation is based, contained in the rulemaking file. The rulemaking file is available for inspection at the SMGB Office at 801 K Street, Room 2436, Sacramento, California, between 9:00 A.M. and 4:00 P.M., Monday through Friday except during state holidays. Copies of the proposed regulations and the Initial Statement of Reasons may be requested by writing to the above address, or viewed on the SMGB's Internet Web Site at: <http://www.consrv.ca.gov/smgb>

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public comment period, the SMGB may adopt, as final, the proposed regulations substantially as described in this Notice and Informative Digest. Copies of these regulations, as finally adopted, will be sent to all persons on the SMGB's public comment mailing list for this issue and others requesting copies. If, as a result of public comment, substantive changes to these regulations are deemed appropriate, copies of the proposed changes will be sent to all persons who testified at the public hearing or submitted written comments during the comment period or at the public hearing, and to those who have requested copies of information regarding the regulation.

Thereafter, the SMGB will accept written comments for a period of at least 15 days after the date upon which changes were made available. If adopted, the regulations will appear in CCR, Title 14, Division 2, Chapter 8, Subchapter 1, Article 4, §§ 3625 through 3634. A copy of the Final Statement of Reasons may be obtained by contacting the SMGB office as described under the section CONTACT PERSON.

#### CONTACT PERSON

Statements, arguments or contentions must be submitted in writing in order for them to be considered by the SMGB. To be included in the mailing list and to receive updates on this rulemaking, please contact the SMGB at (916) 322-1082. Please direct all written comments, procedural inquiries and requests for documents to:



Ms. Kit Gonzales, Executive Assistant  
(or as a backup)  
John G. Parrish, Ph.D., Executive Officer  
(for substance questions also)  
State Mining and Geology Board  
801 K Street, MS 24-05  
Sacramento, California 95814

## TITLE 14. MINING AND GEOLOGY BOARD

### NOTICE OF PROPOSED RULEMAKING

#### RECLAMATION PLAN APPEAL PROCEDURES

NOTICE IS HEREBY GIVEN that the State Mining and Geology Board (SMGB) proposes to adopt the amended regulations described below after considering all comments and recommendations regarding the proposed action.

#### PROPOSED REGULATORY ACTION

The SMGB proposes to amend §§ 3650, 3652, 3653, 3655, and 3656 of Article 5, the California Code of Regulations (CCR), Title 14, Division 2, Chapter 8, Subchapter 1. These regulations clarify and make specific the SMGB's procedures for receiving and hearing petitions submitted pursuant to Public Resources Code (PRC) § 2770 concerning the denial of a reclamation plan by a lead agency, or the failure of a lead agency to act to approve or deny a reclamation plan within a reasonable time.

#### PUBLIC HEARING AND WRITTEN COMMENT PERIOD

The SMGB has not scheduled a public hearing on this proposed action; however, the SMGB will hold a hearing to receive comments if it receives a written request for a public hearing from any interested person, or his/her authorized representative, no later than 15 days before the close of the written comment period. The hearing facility will be barrier free in accordance with the Americans with Disabilities Act. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The SMGB requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony.

Any interested person may submit written comments relevant to the proposed regulatory action to the SMGB. The Written Comment Period closes at 5:00 P.M., April 29, 2002. The SMGB will consider only relevant comments received at the SMGB office by that time.

#### AUTHORITY AND REFERENCE

The SMGB is proposing to adopt these regulations that amend Article 5, Title 14, Division 2, Chapter 8 of the CCR pursuant to the authority granted in the Surface Mining and Reclamation Act (SMARA, PRC § 2710 et seq., and specifically PRC § 2755). Reference: Sections 2770(c)–(e), 2772, 2773, Public Resources Code.

#### INFORMATIVE DIGEST

SMARA was enacted to ensure that any significant adverse impacts of mining to the environment are prevented or mitigated and public health and safety are protected. Under SMARA, surface mining operators are required to submit to their respective lead agencies (cities and counties) for approval, a plan for reclaiming lands disturbed by mining activities, as well as proof of financial assurances to ensure that those disturbed lands are reclaimed in accordance with the approved reclamation plan. Lead agencies are responsible for ensuring their surface mining operators are in compliance with SMARA's permit, reclamation, and financial assurance requirements. The DOC and the SMGB provide lead agency assistance and oversight.

The SMGB is authorized by statutes under the Public Resources Code to conduct appellate hearings concerning specific lead agency and DOC actions. Under PRC § 2770, any person who is aggrieved by a lead agency's denial of a reclamation plan, or the failure of a lead agency to act to approve or deny a reclamation plan within a reasonable time, or the failure of a lead agency to review a reclamation plan according to PRC § 2770(c) and (d), may appeal those lead agency actions or inactions to the SMGB. Article 5 describes the process to be followed for filing and hearing the administrative appeal.

These proposed additional regulations do not duplicate or conflict with existing Federal statutes or regulations. Federal surface mining laws do not apply to the issue addressed by these regulations. Also, by Memorandum of Understanding with the Federal Bureau of Land Management, the U. S. Forest Service, the Department of Conservation, and the State Mining and Geology Board, SMARA and federal law are coordinated to eliminate duplication.

#### CEQA COMPLIANCE

The SMGB staff have determined that this rule making project is exempt from the requirements of the California Environmental Quality Act (CEQA) to Title 14, CCR, § 15061(b)(3), no possibility of a significant effect on the environment.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

The SMGB staff has made the following preliminary determinations:

- Mandate on local agencies and school districts: The SMGB staff has determined that adoption of these proposed regulations does not impose any new mandates on local agencies or on local school districts.
- Cost or savings to any State agency: No savings or additional expenses to state agencies are identified.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: The SMGB staff has determined that the adoption of these proposed regulations does not impose any additional cost obligations on local agencies or on local school districts.
- Other non-discretionary cost or savings imposed upon local agencies: No other non-discretionary costs or savings to local agencies have been identified.
- Cost or savings in Federal funding to the State: No costs or savings in Federal funding to the State have been identified.
- Significant statewide adverse economic impact on business including the ability of California businesses to compete with businesses in other states: The SMGB staff has determined that no statewide adverse impacts to California businesses result from the adoption of this proposed regulatory language.
- Potential cost impact on private persons or directly affected businesses: The SMGB staff is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. These proposed regulations do not mandate actions upon private persons or businesses, but rather clarify voluntary steps that businesses or persons may take on their own behalf.
- Creation or elimination of jobs in California: The SMGB staff has determined that the adoption of these regulations will not:
  - Create nor eliminate jobs within California;
  - Create new nor eliminate existing businesses within California;
  - Expand businesses currently doing business in California.
- Significant effect on housing costs: The SMGB staff has determined that the adoption of these regulations will have no significant effect on housing costs.
- Adverse effects on small businesses: The SMGB staff has determined that the adoption of these proposed regulations does not adversely affect small businesses. These proposed regulations serve to clarify and make specific existing SMGB procedures that are authorized in statute; these proposed

regulations do not mandate actions upon local businesses, but rather clarify voluntary steps that businesses which are in violation of the law may take on their own behalf.

#### POLICY STATEMENT OVERVIEW

The objective of the proposed regulatory language is to clarify and make specific the conditions and procedures under which the SMGB receives and hears petitions submitted pursuant to PRC § 2770 concerning the denial of a reclamation plan by a lead agency.

#### CONSIDERATION OF ALTERNATIVES

The SMGB must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the SMGB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. SMGB staff has not identified any adverse impacts resulting from these proposed regulations.

No alternatives have been considered by the SMGB that would be more effective in carrying out the purpose for which these regulatory changes are proposed, nor have any other alternatives been proposed that would be as effective and less burdensome to affected private persons, lead agencies, or small businesses.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

An interested person may request a copy of the proposed regulations and the Initial Statement of Reasons, or direct questions about the proposed regulations and Initial Statement of Reasons and inspect all supplemental information, upon which the regulation is based, contained in the rulemaking file. The rulemaking file is available for inspection at the SMGB Office at 801 K Street, Room 2436, Sacramento, California, between 9:00 A.M. and 4:00 P.M., Monday through Friday except during state holidays. Copies of the proposed regulations and the Initial Statement of Reasons may be requested by writing to the above address, or viewed on the SMGB's Internet Web Site at: <http://www.consrv.ca.gov/smgb>

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public comment period, the SMGB may adopt, as final, the proposed regulations substantially as described in this Notice and Informative Digest. Copies of these regulations, as finally adopted, will be sent to all persons on the SMGB's public comment mailing list for this issue and others requesting copies. If, as a result of public comment, substantive changes to these regulations are deemed

appropriate, copies of the proposed changes will be sent to all persons who testified at the public hearing or submitted written comments during the comment period or at the public hearing, and to those who have requested copies of information regarding the regulation.

Thereafter, the SMGB will accept written comments for a period of at least 15 days after the date upon which changes were made available. If adopted, the regulations will appear in CCR, Title 14, Division 2, Chapter 8, Subchapter 1, Article 5, §§ 3650 through 3659. A copy of the Final Statement of Reasons may be obtained by contacting the SMGB office as described under the section CONTACT PERSON.

#### CONTACT PERSON

Statements, arguments or contentions must be submitted in writing in order for them to be considered by the SMGB. To be included in the mailing list and to receive updates on this rulemaking, please contact the SMGB at (916) 322-1082. Please direct all written comments, procedural inquiries and requests for documents to:

Ms. Kit Gonzales, Executive Assistant  
(or as a backup)  
John G. Parrish, Ph.D., Executive Officer  
(for substance questions also)  
State Mining and Geology Board  
801 K Street, MS 24-05  
Sacramento, California 95814

### TITLE 14. MINING AND GEOLOGY BOARD

#### NOTICE OF PROPOSED RULEMAKING

##### FORFEITURE OF FINANCIAL ASSURANCE

NOTICE IS HEREBY GIVEN that the State Mining and Geology Board (SMGB) proposes to adopt the regulations described below after considering all comments and recommendations regarding the proposed action.

##### PROPOSED REGULATORY ACTION

The SMGB proposes to adopt §§ 3810 through 3817, adding Article 11.5 to the California Code of Regulations (CCR), Title 14, Division 2, Chapter 8, Subchapter 1. These regulations clarify and make specific the lead agency's and SMGB's procedures for determining if a surface mine operator is financially incapable of performing reclamation in accordance with an approved reclamation plan, or has abandoned the site. These regulations are proposed to define the procedures and findings necessary to make a determination of financial incapability.

#### PUBLIC HEARING AND WRITTEN COMMENT PERIOD

The SMGB has not scheduled a public hearing on this proposed action; however, the SMGB will hold a hearing to receive comments if it receives a written request for a public hearing from any interested person, or his/her authorized representative, no later than 15 days before the close of the written comment period. The hearing facility will be barrier free in accordance with the Americans with Disabilities Act. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The SMGB requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony.

Any interested person may submit written comments relevant to the proposed regulatory action to the SMGB. The Written Comment Period closes at 5:00 P.M., April 29, 2002. The SMGB will consider only relevant comments received at the SMGB office by that time.

#### AUTHORITY AND REFERENCE

The SMGB is proposing to adopt these regulations that add Article 11.5, Title 14, Division 2, Chapter 8 of the CCR pursuant to the authority granted in the Surface Mining and Reclamation Act (SMARA, PRC § 2710 et seq., and specifically PRC § 2755). Reference: Section 2773.1, Public Resources Code.

#### INFORMATIVE DIGEST

SMARA was enacted to ensure that any significant adverse impacts of mining to the environment are prevented or mitigated and public health and safety are protected. Under SMARA, surface mining operators are required to submit to their respective lead agencies (cities and counties) for approval, a plan for reclaiming lands disturbed by mining activities, as well as proof of financial assurances to ensure that those disturbed lands are reclaimed in accordance with the approved reclamation plan. Lead agencies are responsible for ensuring their surface mining operators are in compliance with SMARA's permit, reclamation, and financial assurance requirements. The DOC and the SMGB provide lead agency assistance and oversight.

The proposed regulations will clarify and make specific the process by which a lead agency or the SMGB performs pursuant to PRC § 2773.1(b) regarding the determination of the forfeiture of financial assurances, or the determination that the site has been abandoned. Subsection (b) provides for a lead agency, or the SMGB, to determine if a surface mine operator is financially incapable of performing reclamation in accordance with an approved reclamation plan.



These proposed regulations do not duplicate or conflict with existing Federal statutes or regulations. Federal surface mining laws do not apply to the issue addressed by these regulations. Also, by Memorandum of Understanding with the Federal Bureau of Land Management, the U. S. Forest Service, the Department of Conservation, and the State Mining and Geology Board, SMARA and federal law are coordinated to eliminate duplication.

#### CEQA COMPLIANCE

The SMGB staff have determined that this rule making project is exempt from the requirements of the California Environmental Quality Act (CEQA) to Title 14, CCR, § 15061(b)(3), no possibility of a significant effect on the environment.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

The SMGB staff has made the following preliminary determinations:

- Mandate on local agencies and school districts: The SMGB staff has determined that adoption of these proposed regulations does not impose any new mandates on local agencies or on local school districts.
- Cost or savings to any State agency: No savings or additional expenses to state agencies are identified.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: The SMGB staff has determined that the adoption of these proposed regulations does not impose any additional cost obligations on local agencies or on local school districts.
- Other non-discretionary cost or savings imposed upon local agencies: No other non-discretionary costs or savings to local agencies have been identified.
- Cost or savings in Federal funding to the State: No costs or savings in Federal funding to the State have been identified.
- Significant statewide adverse economic impact on business including the ability of California businesses to compete with businesses in other states: The SMGB staff has determined that no statewide adverse impacts to California businesses result from the adoption of this proposed regulatory language. These proposed regulations serve to clarify and make specific existing lead agency and SMGB procedures that are authorized in statute; these proposed regulations do not mandate actions upon businesses, but rather clarify voluntary steps that businesses which are in violation of the law may take on their own behalf.

- Potential cost impact on private persons or directly affected businesses: The SMGB staff is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. These proposed regulations do not mandate actions upon private persons or businesses, but rather clarify voluntary steps that businesses which are in violation of the law may take on their own behalf.
- Creation or elimination of jobs in California: The SMGB staff has determined that the adoption of these regulations will not:
  - Create nor eliminate jobs within California;
  - Create new nor eliminate existing businesses within California;
  - Expand businesses currently doing business in California.
- Significant effect on housing costs: The SMGB staff has determined that the adoption of these regulations will have no significant effect on housing costs.
- Adverse effects on small businesses: The SMGB staff has determined that the adoption of these proposed regulations does not adversely affect small businesses. These proposed regulations serve to clarify and make specific existing lead agency and SMGB procedures that are authorized in statute; these proposed regulations do not mandate actions upon local businesses, but rather clarify voluntary steps that businesses which are in violation of the law may take on their own behalf.

#### POLICY STATEMENT OVERVIEW

The objective of the proposed regulatory language is to clarify and make specific the conditions and procedures under which a lead agency and the SMGB may act pursuant to PRC § 2773.1(b) as described in the Informative Digest.

#### CONSIDERATION OF ALTERNATIVES

The SMGB must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the SMGB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. SMGB staff has not identified any adverse impacts resulting from these proposed regulations.

No alternatives have been considered by the SMGB that would be more effective in carrying out the purpose for which these regulatory changes are proposed, nor have any other alternatives been proposed that would be as effective and less burdensome to affected private persons, lead agencies, or small businesses.



## AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

An interested person may request a copy of the proposed regulations and the Initial Statement of Reasons, or direct questions about the proposed regulations and Initial Statement of Reasons and inspect all supplemental information, upon which the regulation is based, contained in the rulemaking file. The rulemaking file is available for inspection at the SMGB Office at 801 K Street, Room 2436, Sacramento, California, between 9:00 A.M. and 4:00 P.M., Monday through Friday except during state holidays. Copies of the proposed regulations and the Initial Statement of Reasons may be requested by writing to the above address, or viewed on the SMGB's Internet Web Site at: <http://www.consrv.ca.gov/smgb>

## AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public comment period, the SMGB may adopt, as final, the proposed regulations substantially as described in this Notice and Informative Digest. Copies of these regulations, as finally adopted, will be sent to all persons on the SMGB's public comment mailing list for this issue and others requesting copies. If, as a result of public comment, substantive changes to these regulations are deemed appropriate, copies of the proposed changes will be sent to all persons who testified at the public hearing or submitted written comments during the comment period or at the public hearing, and to those who have requested copies of information regarding the regulation.

Thereafter, the SMGB will accept written comments for a period of at least 15 days after the date upon which changes were made available. If adopted, the regulations will appear in CCR, Title 14, Division 2, Chapter 8, Subchapter 1, Article 11.5, §§ 3810 through 3817. A copy of the Final Statement of Reasons may be obtained by contacting the SMGB office as described under the section CONTACT PERSON.

## CONTACT PERSON

Statements, arguments or contentions must be submitted in writing in order for them to be considered by the SMGB. To be included in the mailing list and to receive updates on this rulemaking, please contact the SMGB at (916) 322-1082. Please direct all written comments, procedural inquiries and requests for documents to:

Ms. Kit Gonzales, Executive Assistant  
(or as a backup)  
John G. Parrish, Ph.D., Executive Officer  
(for substance questions also)  
State Mining and Geology Board  
801 K Street, MS 24-05  
Sacramento, California 95814

## TITLE 14. MINING AND GEOLOGY BOARD

### NOTICE OF PROPOSED RULEMAKING

#### ADMINISTRATIVE PENALTY PETITION PROCEDURES

NOTICE IS HEREBY GIVEN that the State Mining and Geology Board (SMGB) proposes to adopt the amended regulations described below after considering all comments and recommendations regarding the proposed action.

#### PROPOSED REGULATORY ACTION

The SMGB proposes to amend §§ 3901, 3904, and 3910 of Article 12, the California Code of Regulations (CCR), Title 14, Division 2, Chapter 8, Subchapter 1. These regulations clarify and make specific the SMGB's procedures for receiving and hearing petitions submitted pursuant to Public Resources Code (PRC) § 2774.2 concerning the issuance of an Administrative Penalty by the Director of the Department of Conservation (DOC).

#### PUBLIC HEARING AND WRITTEN COMMENT PERIOD

The SMGB has not scheduled a public hearing on this proposed action; however, the SMGB will hold a hearing to receive comments if it receives a written request for a public hearing from any interested person, or his/her authorized representative, no later than 15 days before the close of the written comment period. The hearing facility will be barrier free in accordance with the Americans with Disabilities Act. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The SMGB requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony.

Any interested person may submit written comments relevant to the proposed regulatory action to the SMGB. The Written Comment Period closes at 5:00 P.M., April 29, 2002. The SMGB will consider only relevant comments received at the SMGB office by that time.

#### AUTHORITY AND REFERENCE

The SMGB is proposing to adopt these regulations that amend Article 12, Title 14, Division 2, Chapter 8 of the CCR pursuant to the authority granted in the Surface Mining and Reclamation Act (SMARA, PRC § 2710 et seq., and specifically PRC § 2755). Reference: Section 2774.2, Public Resources Code.

### INFORMATIVE DIGEST

SMARA was enacted to ensure that any significant adverse impacts of mining to the environment are prevented or mitigated and public health and safety are protected. Under SMARA, surface mining operators are required to submit to their respective lead agencies (cities and counties) for approval, a plan for reclaiming lands disturbed by mining activities, as well as proof of financial assurances to ensure that those disturbed lands are reclaimed in accordance with the approved reclamation plan. Lead agencies are responsible for ensuring their surface mining operators are in compliance with SMARA's permit, reclamation, and financial assurance requirements. The DOC and the SMGB provide lead agency assistance and oversight.

The SMGB is authorized by statutes under the Public Resources Code to conduct appellate hearings concerning specific lead agency and DOC actions. Administrative penalties issued by the Director of the Department of Conservation to a surface mine operator may be appealed to the SMGB. Article 12 describes the process to be followed for filing and hearing the administrative appeal.

The regulations under Article 12 became effective in December, 1998. Since that time, clarifications to § 3901, § 3904, and § 3910 addressing the submittal of a complete appeal file, the absence of the appellant during the appeals hearing, and a definition of modification of an administrative order, respectively, have been requested by some appealing under this Article as well as other interested parties. The proposed changes to these three sections are to further clarify and make specific the meanings of those sections and the appeals process.

These proposed additional regulations do not duplicate or conflict with existing Federal statutes or regulations. Federal surface mining laws do not apply to the issue addressed by these regulations. Also, by Memorandum of Understanding with the Federal Bureau of Land Management, the U. S. Forest Service, the Department of Conservation, and the State Mining and Geology Board, SMARA and federal law are coordinated to eliminate duplication.

### CEQA COMPLIANCE

The SMGB staff have determined that this rule making project is exempt from the requirements of the California Environmental Quality Act (CEQA) to Title 14, CCR, § 15061(b)(3), no possibility of a significant effect on the environment.

### DISCLOSURES REGARDING THE PROPOSED ACTION

The SMGB staff has made the following preliminary determinations:

- Mandate on local agencies and school districts: The SMGB staff has determined that adoption of these proposed regulations does not impose any new mandates on local agencies or on local school districts.
- Cost or savings to any State agency: No savings or additional expenses to state agencies are identified.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: The SMGB staff has determined that the adoption of these proposed regulations does not impose any additional cost obligations on local agencies or on local school districts.
- Other non-discretionary cost or savings imposed upon local agencies: No other non-discretionary costs or savings to local agencies have been identified.
- Cost or savings in Federal funding to the State: No costs or savings in Federal funding to the State have been identified.
- Significant statewide adverse economic impact on business including the ability of California businesses to compete with businesses in other states: The SMGB staff has determined that no statewide adverse impacts to California businesses result from the adoption of this proposed regulatory language. These proposed regulations serve to clarify and make specific existing SMGB procedures that are authorized in statute; these proposed regulations do not mandate actions upon businesses, but rather clarify voluntary steps that businesses which are in violation of the law may take on their own behalf.
- Potential cost impact on private persons or directly affected businesses: The SMGB staff is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. These proposed regulations do not mandate actions upon private persons or businesses, but rather clarify voluntary steps that businesses which are in violation of the law may take on their own behalf.
- Creation or elimination of jobs in California: The SMGB staff has determined that the adoption of these regulations will not:
  - Create nor eliminate jobs within California;
  - Create new nor eliminate existing businesses within California;
  - Expand businesses currently doing business in California.
- Significant effect on housing costs: The SMGB staff has determined that the adoption of these regulations will have no significant effect on housing costs.

- **Adverse effects on small businesses:** The SMGB staff has determined that the adoption of these proposed regulations does not adversely affect small businesses. These proposed regulations serve to clarify and make specific existing SMGB procedures that are authorized in statute; these proposed regulations do not mandate actions upon local businesses, but rather clarify voluntary steps that businesses which are in violation of the law may take on their own behalf.

#### POLICY STATEMENT OVERVIEW

The objective of the proposed regulatory language is to clarify and make specific the conditions and procedures under which the SMGB receives and hears petitions submitted pursuant to PRC § 2774.2 concerning the issuance of an Administrative Penalty by the Director of the DOC.

#### CONSIDERATION OF ALTERNATIVES

The SMGB must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the SMGB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. SMGB staff has not identified any adverse impacts resulting from these proposed regulations.

No alternatives have been considered by the SMGB that would be more effective in carrying out the purpose for which these regulatory changes are proposed, nor have any other alternatives been proposed that would be as effective and less burdensome to affected private persons, lead agencies, or small businesses.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

An interested person may request a copy of the proposed regulations and the Initial Statement of Reasons, or direct questions about the proposed regulations and Initial Statement of Reasons and inspect all supplemental information, upon which the regulation is based, contained in the rulemaking file. The rulemaking file is available for inspection at the SMGB Office at 801 K Street, Room 2436, Sacramento, California, between 9:00 A.M. and 4:00 P.M., Monday through Friday except during state holidays. Copies of the proposed regulations and the Initial Statement of Reasons may be requested by writing to the above address, or viewed on the SMGB's Internet Web Site at: <http://www.consrv.ca.gov/smgb>

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public comment period, the SMGB may adopt, as final, the proposed regulations substantially as described in this Notice and Informative Digest. Copies of these regulations, as finally adopted, will be sent to all persons on the SMGB's public comment mailing list for this issue and others requesting copies. If, as a result of public comment, substantive changes to these regulations are deemed appropriate, copies of the proposed changes will be sent to all persons who testified at the public hearing or submitted written comments during the comment period or at the public hearing, and to those who have requested copies of information regarding the regulation.

Thereafter, the SMGB will accept written comments for a period of at least 15 days after the date upon which changes were made available. If adopted, the regulations will appear in CCR, Title 14, Division 2, Chapter 8, Subchapter 1, Article 12, §§ 3900 through 3911. A copy of the Final Statement of Reasons may be obtained by contacting the SMGB office as described under the section CONTACT PERSON.

#### CONTACT PERSON

Statements, arguments or contentions must be submitted in writing in order for them to be considered by the SMGB. To be included in the mailing list and to receive updates on this rulemaking, please contact the SMGB at (916) 322-1082. Please direct all written comments, procedural inquiries and requests for documents to:

Ms. Kit Gonzales, Executive Assistant  
(or as a backup)  
John G. Parrish, Ph.D., Executive Officer  
(for substance questions also)  
State Mining and Geology Board  
801 K Street, MS 24-05  
Sacramento, California 95814

### TITLE 14. MINING AND GEOLOGY BOARD

#### NOTICE OF PROPOSED RULEMAKING

##### REVIEW OF ORDER TO COMPLY

NOTICE IS HEREBY GIVEN that the State Mining and Geology Board (SMGB) proposes to adopt the regulations described below after considering all comments and recommendations regarding the proposed action.

##### PROPOSED REGULATORY ACTION

The SMGB proposes to add Article 14, §§ 3940 through 3948, to the California Code of Regulations (CCR), Title 14, Division 2, Chapter 8, Subchapter 1.



These regulations clarify and make specific the SMGB's procedures for reviewing orders to comply issued pursuant to Public Resources Code (PRC) § 2774.1.

#### PUBLIC HEARING AND WRITTEN COMMENT PERIOD

The SMGB has not scheduled a public hearing on this proposed action; however, the SMGB will hold a hearing to receive comments if it receives a written request for a public hearing from any interested person, or his/her authorized representative, no later than 15 days before the close of the written comment period. The hearing facility will be barrier free in accordance with the Americans with Disabilities Act. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The SMGB requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony.

Any interested person may submit written comments relevant to the proposed regulatory action to the SMGB. The Written Comment Period closes at 5:00 P.M., April 29, 2002. The SMGB will consider only relevant comments received at the SMGB office by that time.

#### AUTHORITY AND REFERENCE

The SMGB is proposing to adopt these regulations that add Article 14, Title 14, Division 2, Chapter 8 of the CCR pursuant to the authority granted in the Surface Mining and Reclamation Act ( SMARA, PRC § 2710 et seq., and specifically PRC § 2755). Reference: Sections 2774.1 Public Resources Code.

#### INFORMATIVE DIGEST

SMARA was enacted to ensure that any significant adverse impacts of mining to the environment are prevented or mitigated and public health and safety are protected. Under SMARA, surface mining operators are required to submit to their respective lead agencies (cities and counties) for approval, a plan for reclaiming lands disturbed by mining activities, as well as proof of financial assurances to ensure that those disturbed lands are reclaimed in accordance with the approved reclamation plan. Lead agencies are responsible for ensuring their surface mining operators are in compliance with SMARA's permit, reclamation, and financial assurance requirements. The DOC and the SMGB provide lead agency assistance and oversight.

The SMGB is authorized by statutes under the Public Resources Code to conduct appellate hearings concerning specific lead agency and DOC actions. An order to comply issued by the Director of the Department of Conservation pursuant to PRC § 2774.1 to a surface mine operator does not become effective

until the operator is provided a hearing before the SMGB concerning the alleged violation. Article 14 describes the process to be followed by the SMGB for reviewing and hearing the administrative appeal prior to the order becoming effective.

These proposed 1 regulations do not duplicate or conflict with existing Federal statutes or regulations. Federal surface mining laws do not apply to the issue addressed by these regulations. Also, by Memorandum of Understanding with the Federal Bureau of Land Management, the U. S. Forest Service, the Department of Conservation, and the State Mining and Geology Board, SMARA and federal law are coordinated to eliminate duplication.

#### CEQA COMPLIANCE

The SMGB staff have determined that this rule making project is exempt from the requirements of the California Environmental Quality Act (CEQA) to Title 14, CCR, § 15061(b)(3), no possibility of a significant effect on the environment.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

The SMGB staff has made the following preliminary determinations:

- Mandate on local agencies and school districts: The SMGB staff has determined that adoption of these proposed regulations does not impose any new mandates on local agencies or on local school districts.
- Cost or savings to any State agency: No savings or additional expenses to state agencies are identified.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: The SMGB staff has determined that the adoption of these proposed regulations does not impose any additional cost obligations on local agencies or on local school districts.
- Other non-discretionary cost or savings imposed upon local agencies: No other non-discretionary costs or savings to local agencies have been identified.
- Cost or savings in Federal funding to the State: No costs or savings in Federal funding to the State have been identified.
- Significant statewide adverse economic impact on business including the ability of California businesses to compete with businesses in other states: The SMGB staff has determined that no statewide adverse impacts to California businesses result from the adoption of this proposed regulatory language. These proposed regulations serve to clarify and make specific existing SMGB procedures that are



authorized in statute; these proposed regulations do not mandate actions upon businesses, but rather clarify voluntary steps that businesses which are in violation of the law may take on their own behalf.

- Potential cost impact on private persons or directly affected businesses: The SMGB staff is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. These proposed regulations do not mandate actions upon private persons or businesses, but rather clarify voluntary steps that businesses which are in violation of the law may take on their own behalf.
- Creation or elimination of jobs in California: The SMGB staff has determined that the adoption of these regulations will not:
  - Create nor eliminate jobs within California;
  - Create new nor eliminate existing businesses within California;
  - Expand businesses currently doing business in California.
- Significant effect on housing costs: The SMGB staff has determined that the adoption of these regulations will have no significant effect on housing costs.
- Adverse effects on small businesses: The SMGB staff has determined that the adoption of these proposed regulations does not adversely affect small businesses. These proposed regulations serve to clarify and make specific existing SMGB procedures that are authorized in statute; these proposed regulations do not mandate actions upon local businesses, but rather clarify voluntary steps that businesses which are in violation of the law may take on their own behalf.

#### POLICY STATEMENT OVERVIEW

The objective of the proposed regulatory language is to clarify and make specific the conditions and procedures for reviewing orders to comply issued pursuant to PRC § 2774.1 as described in the Informative Digest.

#### CONSIDERATION OF ALTERNATIVES

The SMGB must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the SMGB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. SMGB staff has not identified any adverse impacts resulting from these proposed regulations.

No alternatives have been considered by the SMGB that would be more effective in carrying out the purpose for which these regulatory changes are

proposed, nor have any other alternatives been proposed that would be as effective and less burdensome to affected private persons, lead agencies, or small businesses.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

An interested person may request a copy of the proposed regulations and the Initial Statement of Reasons, or direct questions about the proposed regulations and Initial Statement of Reasons and inspect all supplemental information, upon which the regulation is based, contained in the rulemaking file. The rulemaking file is available for inspection at the SMGB Office at 801 K Street, Room 2436, Sacramento, California, between 9:00 A.M. and 4:00 P.M., Monday through Friday except during state holidays. Copies of the proposed regulations and the Initial Statement of Reasons may be requested by writing to the above address, or viewed on the SMGB's Internet Web Site at: <http://www.consrv.ca.gov/smgb>

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public comment period, the SMGB may adopt, as final, the proposed regulations substantially as described in this Notice and Informative Digest. Copies of these regulations, as finally adopted, will be sent to all persons on the SMGB's public comment mailing list for this issue and others requesting copies. If, as a result of public comment, substantive changes to these regulations are deemed appropriate, copies of the proposed changes will be sent to all persons who testified at the public hearing or submitted written comments during the comment period or at the public hearing, and to those who have requested copies of information regarding the regulation.

Thereafter, the SMGB will accept written comments for a period of at least 15 days after the date upon which changes were made available. If adopted, the regulations will appear in CCR, Title 14, Division 2, Chapter 8, Subchapter 1, Article 14, §§ 3940 through 3948. A copy of the Final Statement of Reasons may be obtained by contacting the SMGB office as described under the section CONTACT PERSON.

#### CONTACT PERSON

Statements, arguments or contentions must be submitted in writing in order for them to be considered by the SMGB. To be included in the mailing list and to receive updates on this rulemaking, please contact the

SMGB at (916) 322-1082. Please direct all written comments, procedural inquiries and requests for documents to:

Ms. Kit Gonzales, Executive Assistant  
(or as a backup)  
John G. Parrish, Ph.D., Executive Officer  
(for substance questions also)  
State Mining and Geology Board  
801 K Street, MS 24-05  
Sacramento, California 95814

## **TITLE 14. OFFICE OF SPILL PREVENTION AND RESPONSE**

### **NOTICE OF PROPOSED RULEMAKING**

Notice is hereby given that the Office of Spill Prevention and Response (OSPR) within the Department of Fish and Game, proposes to amend Sections 815.01 through 819.07 in Subdivision 4, Title 14 of the California Code of Regulations (CCR). These sections pertain to Oil Spill Contingency Plans, and Oil Spill Response Organization (OSRO) Ratings.

### **PUBLIC HEARINGS**

Public hearings have been scheduled at which any interested party may present statements, orally or in writing, about this proposed regulatory action. The hearings will continue until all testimony is completed, and will be held as follows:

**NORTHERN CALIFORNIA**  
Tuesday, April 30  
Bay Model Visitor's Center  
2100 Bridgeway 925  
Sausalito, California

**SOUTHERN CALIFORNIA**  
Thursday, May 2  
Port of Long Beach Administration Building  
Harbor Plaza, 6th Floor Board Room  
Long Beach, California

Pre-hearing registration will be conducted just prior to each hearing. Those registered will be heard in the order of their registration. Anyone else wishing to speak at the hearings will be afforded such opportunity after those registered have been heard. The time allowed for each person to present oral testimony may be limited if a substantial number of people wish to speak.

Individuals presenting oral testimony are requested, but not required, to submit a written copy of their statements. The hearings will be adjourned immediately following the completion of the oral testimony.

### **SUBMISSION OF WRITTEN COMMENTS**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to OSPR. All written

comments must be received by OSPR at this office no later than 5:00 p.m. on May 2, 2002, in order to be considered. Written comments may be submitted by mail, fax, or e-mail, as follows:

Department of Fish and Game  
Office of Spill Prevention and Response  
P.O. Box 944209  
Sacramento, California 94244-2090  
Attention: Joy D. Lavin-Jones  
Fax: (916) 324-5662  
E-mail: jlavinj @ospr.dfg.ca.gov

### **PERMANENT ADOPTION OF REGULATIONS**

OSPR may thereafter adopt the proposal substantially as described in this Notice, or may modify such proposal if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposals—with changes clearly indicated—will be available for 15 days prior to its adoption from the person designated in this Notice as contact person. The text will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

### **AUTHORITY AND REFERENCE**

Government Code Sections 8670.28 and 8670.29 grant the Administrator of OSPR the authority to adopt regulations governing the adequacy of oil spill contingency plans, and requiring appropriate financial or contractual arrangements for all necessary equipment and services for the response, containment and cleanup of a reasonable worst case oil spill scenario for each part of the coast that the plan addresses. Government Code Section 8670.30 provides for an Oil Spill Response Organization (OSRO) Rating Program to Rate an OSRO's response capability. Accordingly, the proposed regulations implement, interpret and make specific Government Code Sections 8670.28, 8670.29 and 8670.30, relating to oil spill contingency plans and OSRO Ratings.

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act), enacted in 1990 by Senate Bill 2040, created a comprehensive state oil spill program for marine waters.

The Act provides, in part, for the development of oil spill contingency plans for tank vessels, nontank vessels and marine facilities. These plans are to be used to prepare for the response effort that would be necessary in the event of a discharge of oil into the marine waters of the state. The Act authorizes the Administrator to require that all necessary prevention measures are taken, and that sufficient response

capability is available to handle a reasonable worst case oil spill. Additionally, the Administrator is required to establish regulations that provide for the best achievable protection of the coastal and marine resources, and ensure that all areas to the coast are at all times protected by prevention, response, containment and cleanup equipment and operations.

Pursuant to the authority in the Act, the OSPR currently has regulations (Title 14, California Code of Regulations, Sections 815.01 through 819.06) which make specific the amount of equipment that must be available for response, the maximum time for deployment, and the procedures that must be followed in the event of a spill. These regulations also outline a process for becoming an "approved" Oil Spill Response Organization (i.e., identified by OSPR as potentially able to provide identified response services within pre-determined time frames). Recently enacted legislation (AB 715, Chapter 748, Statutes of 2001) outlines the requirements for an OSRO "Rating" program, and requires that contingency plan holders only contract with "Rated" OSRO's. This Rating program is similar to the existing approval program, but adds more specificity to the requirements, including mandating satisfactory performance in an unannounced drill to validate the response resource services and time frames outlined in the OSRO's application for Rating.

This proposal would amend the current regulations to specify a process for "Rating" an OSRO, and includes the following:

- specifying that the owner/operator of a tank vessel, nontank vessel or marine facility can only contract with a Rated OSRO for booming, on-water containment and recovery, and shoreline protection services;
- clarifying the OSRO Rating application content;
- clarifying conditions for issuing a Rating, including participation in unannounced drills and verification inspections;
- delineating Rating update and renewal procedures;
- specifying criteria for denial or revocation of a Rating;
- delineating Rating reconsideration and appeals process.

#### SMALL BUSINESS IMPACT STATEMENT

OSPR has determined that the proposed regulations may affect small businesses.

#### COMPLIANCE WITH GOVERNMENT CODE SECTIONS 8574.10 AND 8670.54

In accordance with Government Code Section 8574.10, these regulations have been submitted to the Review Subcommittee of the State Interagency Oil

Spill Committee for review and comment; and in accordance with Government Code Section 8670.54, these regulations have been submitted to the Oil Spill Technical Advisory Committee for review and comment.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: NONE.

Costs or savings to any state agency: NONE.

Costs or savings to local agencies or school districts which must be reimbursed in accordance with Part 7 (commencing with Section 17500) of Division 4 of the Government Code: NONE.

Other non-discretionary costs or savings imposed upon local agencies: NONE. Costs or savings in federal funding to the state: NONE.

Cost impacts on representative private persons or businesses: These amendments will not result in significant additional costs to private persons or directly affected businesses. To obtain a Rating, OSRO's are required to document that they can offer response services within given timeframes, and then to demonstrate this ability through unannounced drills and equipment verification inspections.

Significant effect on housing costs: NONE.

#### BUSINESS IMPACTS

The OSPR has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

#### ASSESSMENT OF JOB/BUSINESS CREATION OR ELIMINATION

The OSPR has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California, and will not result in the elimination of existing businesses nor create or expand businesses in the State of California.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), OSPR must determine that no reasonable alternative that has been considered or that has otherwise been identified and brought to the attention of OSPR would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.



AVAILABILITY OF DOCUMENTS  
AND OSPR CONTACT PERSON

OSPR has prepared a Initial Statement of Reasons for the proposed regulatory action and has available all the information upon which the proposal is based. Copies of the exact language of the proposed regulations, Initial Statement of Reasons, forms, the rulemaking file, the Final Statement of Reasons (when available) and other information, if any, may be obtained upon request from the:

Department of Fish and Game  
Office of Spill Prevention and Response  
P.O. Box 944209  
Sacramento, California 94244-2090

In addition, the Notice, the exact language of the proposed regulations, and the Initial Statement of Reasons may be found on the World Wide Web at the following address:

<http://www.dfg.ca.gov/Ospr/regulation/regulation.html>

Questions regarding the proposed regulations, requests for documents, or any questions concerning the substance this regulatory action may be directed to Joy Lavin-Jones ((916) 327-0910), or Chris Klumpp ((916) 322-1195), at the above address.

**TITLE 16. PHYSICAL THERAPY  
BOARD OF CALIFORNIA**

NOTICE IS HEREBY GIVEN that the Physical Therapy Board of California is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Embassy Suites Hotel Los Angeles-International Airport, 9801 Airport Blvd., Los Angeles, California at 1:00 p.m. on Thursday, May 9, 2002. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Physical Therapy Board of California at its office not later than 5:00 p.m. on April 29, 2002 or must be received at the hearing. The Physical Therapy Board of California, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 2696 of the Business and Professions Code, and to implement, interpret or make specific section 2630, 2655, 2655.7, 2695 of said Code, and section 13401 of the Corporations Code, the Physical Therapy Board of California is considering changes to Division 13.2 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

1) **Adopt section 1399.37.1**

Business and Professions Code sections 2630, 2655, 2655.7, 2695 and section 13401 of the Corporations Code authorize the Board to establish guidelines for who may practice physical therapy and form a professional corporation.

The Physical Therapy Board of California has determined that the offering of physical therapy services by a corporation, which is not organized as a professional corporation, is not prohibited by the Physical Therapy Practice Act. This is interpreted to mean that such a non-professional corporation may employ or retain licensed physical therapists to provide physical therapy services and that laypersons may own all or part of the shares of such a corporation. The Physical Therapy Board of California has since found this determination to be problematic when it is misinterpreted and the practice of physical therapy is being controlled by laypersons.

A partner or other person having ownership interest in a professional practice has the right to manage and control the actions of his or her partner or employee. Such a person who is not professionally licensed may not control decisions that effect the professional discretion of the licensee and adversely affect the care of the patient. A layperson that is a shareholder in a corporation providing physical therapy services also may not manage or control the professional actions or practice decisions of a physical therapist in the employ of such a corporation.

The Physical Therapy Board of California proposes to adopt section 1399.37.1 to prohibit a person other than a licensed physical therapist, a physical therapy corporation as specified in section 2690 of the Code, or any other person authorized by law, from directing or controlling the professional practice of physical therapy. The proposed adoption of 1399.37.1 would also specify that a licensed physical therapist who authorizes or permits his or her professional practice to be directed or controlled to be in violation of this section and subject to disciplinary action.



FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

BUSINESS IMPACT

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: None

IMPACT ON JOBS/NEW BUSINESSES

The board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Private Persons or Entities: The Physical Therapy Board of California is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Physical Therapy Board of California has determined that the proposed regulations would not affect small businesses since compliance is placed with the individual licensee.

CONSIDERATION OF ALTERNATIVES

The Physical Therapy Board of California must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome on affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS  
AND INFORMATION

The board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of the reasons and all of the other information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Physical Therapy Board of California at 1418 Howe Avenue, Suite 16, Sacramento, California 95825.

AVAILABILITY AND LOCATION OF THE  
FINAL STATEMENT OF REASONS  
AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries concerning the proposed administrative action or the substance of the proposed regulations may be addressed to:

Rebecca Marco  
1418 Howe Avenue, Suite 16  
Sacramento, CA 95825  
(916) 263-2550  
(916) 263-2560—Fax Number  
[Rebecca\\_Marco@dca.ca.gov](mailto:Rebecca_Marco@dca.ca.gov)

The backup contact person is:

Steve Hartzell  
1418 Howe Avenue, Suite 16  
Sacramento, CA 95825  
(916) 263-2550  
(916) 263-2560—Fax Number  
[Steve\\_Hartzell@dca.ca.gov](mailto:Steve_Hartzell@dca.ca.gov)

Inquiries concerning the substance of the proposed regulations may be directed to Rebecca Marco at (916) 263-2550.

Website Access: Materials regarding this proposal can be found at [www.ptb.ca.gov](http://www.ptb.ca.gov).

**TITLE 16. PHYSICAL THERAPY  
BOARD OF CALIFORNIA**

NOTICE IS HEREBY GIVEN that the Physical Therapy Board of California is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Embassy Suites Hotel Los Angeles-International Airport, 9801 Airport Blvd., Los Angeles, California at 1:30 p.m. on Thursday, May 9, 2002. Written comments, including those sent

by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Physical Therapy Board of California at its office not later than 5:00 p.m. on April 29, 2002 or must be received at the hearing. The Physical Therapy Board of California, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

#### **AUTHORITY AND REFERENCE**

Pursuant to the authority vested by Section 2615 of the Business and Professions Code, and to implement, interpret or make specific section 2633, and 2655, the Physical Therapy Board of California is considering changes to Division 13.2 of Title 16 of the California Code of Regulations as follows:

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

##### **1) Adopt section 1398.12**

Business and Professions Code section 2633 authorizes the Board to establish the use of an initial indicating possession of an earned academic degree. Business and Professions Code section 2655 establishes educational requirements for the profession of physical therapy.

There are varying levels of education achieved amongst those licensed in the physical therapy profession since the academic levels of physical therapy education have advanced from the Baccalaureate degree. Therefore, licensure cannot be assumed to be synonymous with the academic degree.

The PhD, doctorate in philosophy and now the DSc, doctorate in Science, as well as professional doctoral degrees in medicine, dentistry, nursing, education, physical therapy, etc. are all individuals with advanced degrees and are entitled to be referred to as "Doctor." Equally entitled, the consumer should have the freedom to choose their physical therapist based on academic preparation. Therefore, the physical therapist earning the academic title should be identified to the consumer as such by prefixing their name with "Doctor in written communication, including a badge bearing the licensee's name, if the name is followed by an unabbreviated specification of the applicable doctorate degree held by the licensee or in spoken

communication that is made in circumstances in which the speaker reasonably believes that the listener would not be misled.

#### **FISCAL IMPACT ESTIMATES**

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

#### **BUSINESS IMPACT**

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: None

#### **IMPACT ON JOBS/NEW BUSINESSES**

The board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Private Persons or Entities: The Physical Therapy Board of California is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

#### **EFFECT ON SMALL BUSINESS**

The Physical Therapy Board of California has determined that the proposed regulations would not affect small businesses since the responsibility of compliance is placed with the individual licensee.

#### **CONSIDERATION OF ALTERNATIVES**

The Physical Therapy Board of California must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome on affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

## INITIAL STATEMENT OF REASONS AND INFORMATION

The board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

## TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of the reasons and all of the other information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Physical Therapy Board of California at 1418 Howe Avenue, Suite 16, Sacramento, California 95825.

## AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

## CONTACT PERSON

Inquiries concerning the proposed administrative action or the substance of the proposed regulations may be addressed to:

Rebecca Marco  
1418 Howe Avenue, Suite 16  
Sacramento, CA 95825  
(916) 263-2550  
(916) 263-2560—Fax Number  
[Rebecca\\_Marco@dca.ca.gov](mailto:Rebecca_Marco@dca.ca.gov)

The backup contact person is:  
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[Steve\\_Hartzell@dca.ca.gov](mailto:Steve_Hartzell@dca.ca.gov)

Inquiries concerning the substance of the proposed regulations may be directed to Rebecca Marco at (916) 263-2550.

Website Access: Materials regarding this proposal can be found at [www.ptb.ca.gov](http://www.ptb.ca.gov).

## TITLE 16. PHYSICAL THERAPY BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Physical Therapy Board of California is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally

or in writing relevant to the action proposed at a hearing to be held at the Embassy Suites Hotel Los Angeles-International Airport, 9801 Airport Blvd., Los Angeles, California at 1:15 p.m. on Thursday, May 9, 2002. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Physical Therapy Board of California at its office not later than 5:00 p.m. on April 29, 2002 or must be received at the hearing. The Physical Therapy Board of California, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

## AUTHORITY AND REFERENCE

Pursuant to the authority vested by section 2615 of the Business and Professions Code to implement, interpret or make specific Sections 2615 and 2620.5, the Physical Therapy Board of California is considering changes to Division 13.2 of Title 16 of the California Code of Regulations as follows:

## INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

### (1) Add section 1399.70

Sections 2620.5 authorizes a physical therapist, upon specified authorization of a physician and surgeon, perform tissue penetration for the purpose of evaluating neuromuscular performance as a part of the practice of physical therapy, as defined in Section 2620, provided the physical therapist is certified by the board to perform the tissue penetration and evaluation; and provided the physical therapist does not develop or make diagnostic or prognostic interpretations of the data obtained.

Further, the Legislature mandated the Physical Therapy Board of California to undertake a study assessing the need for, and potential alternatives to, the certification requirement provided for in subdivision (c) of section 2620.5. As a result of the study, the Physical Therapy Board of California reported to the Legislature the need for regulation requiring all certified electromyographers include in their reports to the diagnosing physician and surgeon that the findings reported to the patient's physician shall include the following statement: "This study has been performed in accordance with the California Business and

Professions Code, and with the California Code of Regulations. The findings in this report do not represent diagnostic interpretations or medical diagnosis. The results of the electromyographic examination by the certified electromyographer must be integrated by the physician and surgeon with the patient's history, clinical examination, and the results of any other tests performed in establishing a medical diagnosis."

This regulatory requirement would provide with certainty that a certified electromyographer conducted the evaluation and that the purpose of the evaluative report is solely to assist the physician and surgeon in providing a medical diagnosis to the patient.

#### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

#### BUSINESS IMPACT

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: None

#### IMPACT ON JOBS/NEW BUSINESSES

The board has determined that this regulatory proposal would not have an impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

#### COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The Physical Therapy Board of California is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Housing Costs: None

#### EFFECT ON SMALL BUSINESS

The Physical Therapy Board of California has determined that the proposed regulations could affect a small physical therapy business if certified to perform electromyography.

#### CONSIDERATION OF ALTERNATIVES

The Physical Therapy Board of California must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome on affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of the reasons and all of the other information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Physical Therapy Board of California at 1418 Howe Avenue, Suite 16, Sacramento, California 95825.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

#### CONTACT PERSON

Inquiries concerning the proposed administrative action or the substance of the proposed regulations may be addressed to:

Rebecca Marco  
1418 Howe Avenue, Suite 16  
Sacramento, CA 95825  
(916) 263-2550  
(916) 263-2560—Fax Number  
[Rebecca\\_Marco@dca.ca.gov](mailto:Rebecca_Marco@dca.ca.gov)

The backup contact person is:  
Steve Hartzell  
1418 Howe Avenue, Suite 16  
Sacramento, CA 95825  
(916) 263-2550  
(916) 263-2560—Fax Number  
[Steve\\_Hartzell@dca.ca.gov](mailto:Steve_Hartzell@dca.ca.gov)



Inquiries concerning the substance of the proposed regulations may be directed to Rebecca Marco at (916) 263-2550.

Website Access: Materials regarding this proposal can be found at [www.ptb.ca.gov](http://www.ptb.ca.gov).

## GENERAL PUBLIC INTEREST

### DEPARTMENT OF FISH AND GAME

#### CONSISTENCY DETERMINATION

Fish and Game Code Section 2080.1

Tracking Number 2080-2002-005-05

PROJECT: Prima Deshecha Landfill Landslide Remediation Project

LOCATION: Southern Orange County

NOTIFIER: Integrated Waste Management Department, County of Orange

#### BACKGROUND:

The proposed action is the implementation of the modified preferred alternative landslide remediation project for a landslide located in the southern portion of the Prima Deshecha Landfill. The Prima Deshecha Landfill is owned and operated by the Orange County Integrated Waste Management Department (IWMD), and is located in southern Orange County southeast of San Juan Capistrano. The modified preferred alternative consists of a landslide remediation project that addresses the slope instability and landslide activity in a soil stockpile located in the southern part of the landfill, south of the main access road and the Prima Deshecha Cañada channel.

Landslide activity occurred when 1.7 million cubic yards of soil materials excavated for the next area of landfill operations were placed on a 17-acre site (Stockpile Area 1) previously used as a soil borrow area. The landslide occurred due to heavy El Niño rains in 1998 which elevated groundwater pore pressure and activated the stockpile and sub-grade material. Following the discovery of surficial cracking within Stockpile Area 1, a series of measurements were taken in May 1998 to determine the extent of slope failure and the rate of slide mass movement. Measurements revealed an approximately two million-cubic yard landslide that extends linearly along the Prima Deshecha Cañada channel for more than 1,500 feet. Landslide movement has ranged between 0.2 to 3.0 inches a day. Geologic studies performed by the IWMD show that the landslide threatens to fill and block flows within the stream, which could then cause flooding of existing landfill areas and residential areas located immediately downstream of the landslide.

The proposed action would remediate the landslide by removing and then re-compacting the stockpiled/ landslide materials as a buttress fill within an approximately 88-acre area that includes the existing Prima Deshecha Cañada stream. This action would allow for future landfill operations (i.e., Phase B) within the remediated area. In addition, the Prima Deshecha Cañada stream will be relocated to the south into a new 85 to 101-foot-wide stream channel on fill within the landslide remediation area. The new stream bed will consist of a 7.5-foot thick coarse-grained alluvial-like material underlain with a low permeability liner/impervious clay layer and will be planted with 7.1 acres of riparian/wetland habitat to offset project impacts (referred to as Site A). A series of 4-foot- high gabion channel stabilizers will also be constructed in the new stream channel to stabilize and maximize water infiltration into the stream bed. The landslide remediation project will take approximately one year to complete and subsequent Phase B landfill operations within the remediated area will take approximately five years to complete.

Focused surveys for least Bell's vireo (*Vireo bellii pusillus*, "vireo") were conducted within the project area in 1992, 1998, 2000 and 2001. No vireos were found in the project area in 1992, while four pairs of vireos were found in 1998 and 2000, and nine pairs of vireos were found in 2001. The IWMD has observed a general increase in wetland habitat within the project area since 1992 which correlates with the increase in vireos. Observations made during the 2001 surveys were used to determine use areas for the nine vireo pairs found within the project area. The observed use areas ranged in size from approximately 1 to 7 acres and are assumed to approximate the home ranges or territories of these nine vireo pairs. While occupied by nine pairs of vireo, much of the riparian/wetland habitat within the project site consists of a relatively narrow band of southern willow scrub and mule fat scrub within Prima Deshecha Cañada stream. The vireo use areas in these reaches of the stream include a high proportion of adjacent upland habitats.

The proposed action would adversely affect the following habitat types: southern willow scrub (1.4 acres); mule fat scrub (0.88 acre); alkali marsh (0.36 acre); freshwater marsh (0.6 acre); ephemeral drainages (0.02 acre); coastal sage scrub (5.5 acres); existing disturbed (31.2 acres); and non-native grassland (48 acres). The 7-acre Site B riparian/wetland creation area currently consists of annual grassland (2 acres), ruderal vegetation (3.2 acres), ornamental plantings (0.6 acre), mule fat scrub and ephemeral drainage (0.8 acre), and coyote brush scrub (0.2 acre). Of the total area disturbed by the proposed action, 3.24 acres of riparian/wetland habitat found in 2000 surveys to be a portion of 6 vireo use areas would be

impacted. Based on 2001 surveys, 100 percent of the areas used by 3 pairs of vireo, and approximately 80, 50 and 20 percent of the areas used by 3 other pairs of vireo, respectively, will be impacted by the landslide remediation. Grading and excavation for the riparian/wetland creation Site B will directly impact 0.74 acres of mule fat scrub found in 2000 surveys to be occupied by 2 pairs of vireo, and impact approximately 60 and 5 percent of the areas used by these 2 pairs, respectively. Therefore, the project will impact over 15 acres of the approximately 30 acres of the riparian/wetland and upland habitat being used by the 9 pairs of vireo and fragment, reduce and/or completely eliminate established territories for 8 out of the 9 pairs of vireo found within the project area.

The vireo is a species listed as endangered under the California Endangered Species Act, Fish and Game Code 2050, *et seq.* ("CESA"). On February 8, 2002, the U.S. Fish and Wildlife Service (USFWS) issued Biological Opinion # 1-6-02-F-703 describing the project actions and setting forth measures to mitigate impacts to the vireo and its habitat. On February 19, 2002, the Director of the Department of Fish and Game ("Department") received a notice from Janice V. Goss, Director of the IWMD, seeking a determination pursuant to section 2080.1 of the Fish and Game Code that the biological opinion was consistent with CESA.

#### DETERMINATION

After reviewing the above-referenced biological opinion and other relevant documents, the Department has determined that Biological Opinion # 1-6-02-F-703 is consistent with CESA because the project and mitigation measures meet the conditions set forth in Fish and Game Code section 2081(b) and (c) for authorization of incidental take of species protected under CESA. The Department has been working in cooperation with the IWMD and the USFWS since 1998 to analyze several project alternatives in order to develop an alternative that would minimize the impact to the vireo. Likewise, the Department has been fully involved in the selection and design of take minimization and mitigation measures. The USFWS prepared the Biological Opinion to include ongoing Department involvement and approval of all of the mitigation, monitoring, conservation, and long-term management elements contained therein.

Important to the Department's consistency findings are several measures from the Biological Opinion which address expected or potential impacts to the vireo. These include, but are not limited to, the following measures:

1. The IWMD will mitigate impacts by creating replacement habitat at the following ratios: (a) 1.4 acres of southern willow scrub at a 5:1 ratio; (b) 0.88 acre of mule fat scrub at a 3:1 ratio; (c) 0.36 acre of alkali marsh at a 3:1 ratio; (d) 0.6 acre of freshwater marsh at a 1:1 ratio; and (e) 0.02 acre of ephemeral drainages at a 1:1 ratio. A total of 11.34 acres of riparian/wetland habitat will be created consisting of 7.0 acres of southern willow scrub, 2.64 acres of mule fat scrub, 1.08 acres of alkali marsh/meadow, and 0.6 acre of freshwater marsh. Riparian/wetland creation will occur at two sites: 7.1 acres in the relocated Prima Deshecha Cañada stream channel (Site A) and 4.5 acres in an area expanded off the existing stream at its downstream terminus within the landfill property (Site B).
2. The IWMD will not perform: (a) initial clearing and grubbing of riparian/wetland; or (b) project construction or subsequent Phase B landfill operations within 500 feet of riparian/wetland habitat to be avoided, created or restored during the vireo breeding season of March 15 to September 15 (or sooner if a qualified biologist demonstrates to the satisfaction of the Department that vireos are no longer present in the project area prior to September 15).
3. The IWMD will fence the limits of project impacts to prevent additional impacts to the stream or riparian/wetland habitat and use best management practices to prevent the spread of silt from the construction zone into habitats to be avoided. The IWMD will also demarcate a 500-foot setback from the stream and associated riparian/wetland habitat to be avoided, created or restored for project construction or subsequent Phase B landfill operations during the vireo breeding seasons.
4. A monitoring biologist approved by the Department will be onsite during: (a) initial clearing and grubbing of riparian/wetland vegetation; (b) project construction or subsequent Phase B landfill operations outside of, but adjacent to, the 500-foot setback during the vireo breeding season; and (c) project construction (including grading of riparian/wetland creation Site B) or subsequent Phase B landfill operations within the 500-foot setback area (during the vireo breeding season) to ensure compliance with all conservation measures.
5. The IWMD will post a letter of credit, pledge of revenue or other financial assurance approved by the Department for site preparation, planting, irrigation, and 5 years of maintenance and monitoring of the riparian/wetland creation and coastal sage scrub restoration areas totaling 22.5 acres (including a 20% contingency to be added to the total costs). This financial assurance is to guarantee the successful implementation of the riparian/wetland creation and coastal sage scrub restoration installation, maintenance and monitoring.

6. The IWMD will execute and record a perpetual biological conservation easement over an approximately 70-acre conservation area that includes the mitigation areas, upland habitats, and adjacent buffer zones. The easement will be in favor of the Department, County of Orange Harbors, Beaches and Parks (HBP) or other agent approved by the Department. The form and content of the easement will be approved by the Department prior to its execution. The easement will allow the IWMD to construct and manage improvements required by law and/or regulation for landfill operation, but state that no other easements or activities that would result in soil disturbance and/or vegetation removal, except as approved by the Department, will be allowed within the easement area.
7. The IWMD will implement a perpetual management, maintenance and monitoring plan, including but not limited to de-silting and maintaining the stilling basin and outflow pipe in riparian/wetland creation Site B, cowbird trapping, and vireo monitoring. The IWMD will also establish a non-wasting endowment, escrow agreement or other financial assurance approved by the Department to secure the ongoing funding for the perpetual management, maintenance and monitoring of the biological conservation easement area by the Department, HBP or other agent approved by the Department.

Pursuant to section 2080.1 of the Fish and Game Code, incidental take authorization under CESA will not be required for incidental take of the vireo as a result of the project. Any substantive changes to the project as described in the biological opinion, including changes to the mitigation measures, will require the notifier to obtain a new consistency determination or a CESA incidental take permit from the Department.

## DEPARTMENT OF FISH AND GAME

### CONSISTENCY DETERMINATION Fish and Game Code Section 2080.1 Tracking Number 2080-2002-003-06

**PROJECT:** Western Municipal Water District—  
Section 28 Pipeline Project

**LOCATION:** County of Riverside (unincorporated  
area of Woodcrest)

**NOTIFIER:** Shelah Riggs of Albert A. Webb  
Associates, representing Western  
Municipal Water District

### BACKGROUND

The proposed action is the construction of an underground water pipeline, which will extend from an existing pump station located between Van Buren

Blvd and Mockingbird Canyon Wash. Installation of the water line will require temporary excavation and construction activities within a 25-foot-wide construction zone centered on the pipeline alignment. The construction will impact 37 linear feet within Mockingbird Canyon wash and 788 linear feet within the unnamed tributary to Mockingbird Canyon wash. Construction of the proposed project will impact a total of 0.47 acre of riparian habitat associated with the drainages, 0.02 acre in Mockingbird Canyon wash and 0.45 acre in the unnamed tributary to Mockingbird Canyon wash. The habitat within the project footprint within the drainages consists of Southern Willow Riparian Scrub which is occupied by the state and federally endangered least Bell's vireo. The project is located in an unincorporated portion of Woodcrest in Riverside County. The proposed pipeline begins between the junction of Mockingbird Canyon Road and Van Buren Blvd, extends west under Mockingbird Canyon Road, and continues roughly westward to the east end of Judy Ann Drive (Thomas Guide, San Bernardino/Riverside Counties Page 745 Dx4). The project crosses two drainages, Mockingbird Canyon Wash and an unnamed tributary to Mockingbird Canyon Wash.

The action would adversely affect least Bell's vireo and its habitat. Least Bell's vireo is a species listed as endangered under the California Endangered Species Act, Fish and Game Code 2050, *et seq.* ("CESA"). On November 1, 2001, the U.S. Fish and Wildlife Service (USFWS) issued Biological Opinion #FWS-WRIV-1678.3 and subsequently amended the biological opinion on January 23, 2002. The biological opinion and the subsequent amendment describe the project actions and set forth measures to mitigate impacts to the least Bell's vireo and its habitat. On January 29, 2002, the Director of the Department of Fish and Game ("Department") received a notice from Albert A. Webb Associates on behalf of Western Municipal Water District seeking a determination pursuant to section 2080.1 of the Fish and Game Code that the Federal biological opinion and the subsequent amendment were consistent with CESA.

### DETERMINATION

After reviewing the above-referenced biological opinion, the amendment, and other relevant documents, the Department has determined that Biological Opinion #FWS-WRIV-1678.3 and the subsequent amendment are consistent with CESA because the project and mitigation measures meet the conditions set forth in Fish and Game Code section 2081(b) and (c) for authorization of incidental take of species



protected under CESA. Measures incorporated into the project and described in the biological opinion require the following:

1. Prior to initiation of project activities, the Operator shall contribute sufficient finds to the Riverside/Corona Resource Conservation District (RCD) or other entity approved by the Department to restore one acre of riparian habitat within the project site for each acre of riparian habitat that is disturbed during construction-related activities (1:1 replacement-to-impact ratio). The total of disturbed riparian habitat is anticipated to be approximately 0.47 acre. Giant reed (*Arundo donax*) and other non-native plants shall be removed from the on-site restoration area and the site shall be actively monitored and managed to ensure that it remains Arundo-free until native riparian vegetation is successfully established. The Operator and the RCD shall ensure that the restoration is successfully completed (including exotic removal and revegetation monitoring) and that it meets the required success criteria.
2. Prior to initiation of project activities, the Operator shall contribute sufficient finds to the Riverside/Corona RCD or other entity approved by the Department to restore two acres of riparian habitat at an offsite location within the Mockingbird Canyon Drainage for each acre of riparian habitat that is disturbed during construction-related activities (2:1 replacement-to-impact ratio). Therefore, an additional 0.94 acre of habitat will be restored offsite within Mockingbird Canyon drainage. Giant reed (*Arundo donax*) and other non-native plants shall be removed from the off-site restoration area and the site shall be actively monitored and managed to ensure that it remains Arundo-free until native riparian vegetation is successfully established. The restoration site within the Mockingbird Canyon drainage shall be located as near as possible to the section 28 pipeline project site. The Operator and the RCD shall ensure that the restoration is successfully completed (including exotic removal and revegetation monitoring) and that it meets the required success criteria.
3. The restoration sites shall be monitored and managed until habitat is successfully restored. The minimum criteria shall be met for the Department to determine the restoration sites are successful: (a) At the end of seven years following the initiation of restoration activities, the restoration areas shall attain a minimum of 70% cover of native plant species; (b) less than 10 percent absolute cover of exotic plant species; (c) the absolute cover of native species must be represented by at least five dominant or co-dominant

plant species; (d) document the recruitment of native plants within the planted areas; (e) a positive trend in the diversity and absolute cover of native plant species must be observed based on appropriate statistical analyses that account for natural, year-to-year variations; and (f) the structure and composition of the revegetated area is statistically similar to habitat occupied by vireos in the vicinity. Alternatively, restoration can be considered successful if the habitat is occupied by a breeding pair of least Bell's vireo, southwestern willow flycatcher, and/or yellow-breasted chat.

4. Provide proof that sufficient funds have been contributed to the RCD or other approved entity for the restoration (exotic removal and revegetation) of riparian habitat prior to commencing project activities.

The Terms and Conditions of the biological opinion also include measures to ensure that the habitat is restored to adequately compensate for the impacts to the habitat by the proposed project.

Pursuant to section 2080.1 of the Fish and Game Code, incidental take authorization under CESA will not be required for incidental take of least Bell's vireo as a result of the project. Any substantive changes to the project as described in the biological opinion or the subsequent amendment, including changes to the mitigation measures, will require the notifier to obtain a new consistency determination or a CESA incidental take permit from the Department.

## TITLE 14. FISH AND GAME COMMISSION

### NOTICE OF PROPOSED CHANGES IN REGULATIONS

**(Continuation of California Regulatory Notice Registers 2001, No. 39-Z, and 2002, No. 7-Z, and Meetings of August 3, 2001, October 4, 2001 and December 7, 2001)**

(NOTE: Please note the changes shown in **bold** in the Updated Informative Digest, the meeting dates and locations for the discussion and adoption hearings, and the deadlines for receipt of comments.

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 7071, 7075, 7078, 7083 and 7088 of the Fish and Game Code and to implement, interpret or make specific sections 2362, 7070, 7071, 7075, 7078, 7082, 7083, 7086, 7087, 7088, 8383, 8383.5 and 8623 of said Code, proposes to add sections 50.00, 50.01, 50.02 and 50.03 to new Article 1 and sections 51.00, 51.01, 51.02, 51.04 and 51.05 to new Article 2 of new Chapter 5.5, Division 1, add sections 155.01, 155.1 and 155.10 and amend



Section 109, Title 14, California Code of Regulations, and make inoperative sections 8383 and 8383.5, Fish and Game Code, relating to the Fishery Management Plans (FMP), Generally, FMP Definitions, Purpose and Scope of the Plan, Actions Requiring Plan Amendment, Framework Review Processes, White Seabass Fishery Management Plan (Plan) Purpose and Scope, Definitions, Process and Timing, Allocation Factors, Harvest Control Rules (Optimum Yield Options), Adoption of White Seabass Commercial Laws Including Size Limit, Closed Season, Use of Purse Seine and Round Haul Nets, Delivery of White Seabass from Mexico, Gill Nets Used to Take White Seabass and Incidental Take of Thresher and Shortfin Mako Shark in White Seabass Drift Net.

#### UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under existing law, the Fish and Game Commission (Commission) is authorized to regulate commercial and recreational fisheries for white seabass (Fish and Game Code Sections 200, 205, and 7071). The Marine Life Management Act of 1998 (MLMA) directs that fisheries be managed pursuant to fishery management plans and that a White Seabass Fishery Management Plan (White Seabass FMP or plan) that was developed and approved by the Commission in 1996 remain in effect until amended to conform with the MLMA. The MLMA further directs that the White Seabass FMP be amended on or before January 1, 2002, and that the Commission adopt implementing regulations not later than 60 days after the plan amendments are adopted by the Commission. The MLMA authorizes the Commission to regulate fisheries for white seabass and to make Fish and Game Code Statutes for white seabass inoperative.

Existing white seabass laws and regulations protect subadult and young adult white seabass through a 28-inch minimum size limit, a 3-fish daily bag and possession limit, commercial gear (net) restrictions (prohibition on use of round haul and minimum mesh size for gill and trammel nets), and an annual spring season fishing closure (March 15 through June 15) to protect adult spawning white seabass with a provision authorizing the take of one legal size white seabass during the spawning season closure by sportfishing and one legal size white seabass if taken incidental to fishing with gill or trammel nets. Existing regulatory measures for white seabass have been adopted or adjusted (amended) during recent decades toward the goal of rebuilding white seabass stocks off California.

The proposed regulation changes would add new Chapter 5.5 dedicated to regulations implementing fishery management plans adopted pursuant to the MLMA. New Articles 1 and 2, of Chapter 5.5 would contain regulations that apply to fishery management

plans in general (Article 1) and the White Seabass FMP in particular (Article 2). Several new Title 14 sections (50.00, 50.01, 50.02, 50.03, 51.00, 51.01, 51.02, 51.04, 51.05, 155.01, 155.1, and 155.10) are proposed to be added to, or amended (109) in Title 14, CCR. Fish and Game Code Section 8383 (the closed commercial white seabass season that was adopted in June 2000 as Section 155, Title 14, CCR) and Section 8383.5 (commercial white seabass minimum size limit) are proposed to be made inoperative in the Fish and Game Code. The proposed new regulations specify definitions that apply to management involving fishery management plans in general and the white seabass fishery specifically. Also, regulations describe the purpose and scope of the White Seabass FMP, where recreational and commercial regulations are located in Title 14, and the process and timing of white seabass monitoring. Proposed regulations authorize the director to appoint a White Seabass Scientific and Constituent Advisory Panel (WSSCAP), describes general criteria for membership on the WSSCAP, describes the general timing and processes for developing, considering, and adopting regulatory changes associated with white seabass fishery management, plan amendment, determination of harvest guidelines, including optimum yields, and considerations that guide white seabass allocation.

More specifically, the regulations would:

- 1) Add Section 50.00 to Article 1 of new Chapter 5.5 describing the location of regulations applicable to sport fishing, commercial fishing, and a fishery management plan for a species or species group.
- 2) Add Section 50.01 containing 24 definitions, including a minor revision to the definition of Acceptable Biological Catch, that apply generally to fishery management plans and related fisheries management measures (unless defined otherwise in regulations specific to a fishery management plan), and specifies that definitions found in Chapter 1 of Title 14, CCR, and Chapters 1 and 2 of Division 0.5 of the Fish and Game Code will apply to FMPs where not in conflict with definitions found in an FMP.
- 3) Add Section 50.02 describing changes in management measures and actions that trigger the need for amendment of an FMP.
- 4) Add Section 50.03 describing three processes for taking management action to implement routine annual changes in management that range from a "prescribed action" involving no public notice where regulatory guidelines are first adopted by the Commission, to a "full rulemaking action" involving at least three Commission meetings to hear, consider, and approve measures.

- 5) Add Section 51.00 to Article 2 of new Chapter 5.5 describing the purpose and scope of the White Seabass FMP, the location in Title 14 of white seabass sport and commercial fishing provisions, and specifies that where white seabass weight is given for white seabass, the weight is in pounds round weight or round-weight equivalent.
- 6) Add Section 51.01 with definitions for *Fishing year, overfished stock, points of concern, points of concern process, socio-economic benefits, white seabass, white seabass fishery, and White Seabass Fishery Management Plan*, that are specific to the White Seabass FMP.
- 7) Add Section 51.02 that directs that white seabass management is to conform to the goals, objectives, criteria, and procedures of the White Seabass FMP, specifies that monitoring of fishing is done annually, authorizes the Director to appoint a White Seabass Scientific and Constituent Advisory Panel (WSSCAP), directs that regulations remain in force until amended or repealed by the Commission, and sets a general time line for annual development and adoption of specifications and management measures.
- 8) Add Section 51.04 which directs that white seabass fishery allocations be based on a ratio specified in the plan, describes factors that, at a minimum, will be considered during a change in allocation of white seabass, and provides that modification of a direct allocation to a fishery may be "a routine management measure where criteria are adopted in regulation.
- 9) Adds Section 51.05 describing four possible options, and four suboptions, for harvest control rules with all but one option involving the determination of an optimum yield for the fisheries ranging from 212,985 ~~283,979~~ and 1.3 million pounds.
- 10) Adds Section 155.01 that adopts as a regulation the current 28-inch commercial minimum size limit for white seabass that presently is contained in Fish and Game Code Section 8383.5, and make Section 8383.5 inoperative.
- 11) Adds Section 155.1 that adopts as regulation current restrictions of Fish and Game Code Sections 2362 and 8623, on the use of purse seine and other round haul nets off California, and adopts the language of Section 109, Title 14, CCR as Subsection (d) of proposed Section 155.1 regarding requirements for delivery, inspection, and clearance of white seabass on a vessel carrying a purse seine or other round haul net.
- 12) Adds Section 155.10 that adopts as regulations current requirements of Fish and Game Code Sections 8623 and 8576 governing vessels land-

ing white seabass with gill nets, including minimum mesh size, incidental take of white seabass during the season closure, and the incidental take of thresher and shortfin mako shark in drift gill nets when fishing for white seabass.

- 13) Remove reference to white seabass from Section 109 to avoid duplication with proposed new Section 155.1 (subsection d).
- 14) Makes inoperative Fish and Game Code Sections 8383 and 8383.5 because they will now appear in regulations of Title 14, CCR.

Based on a review of public input and comments provided on the WSFMP by a peer review panel that reviewed the plan, three changes (shown in bold in the above summary of proposed changes) were made to the originally proposed regulatory language for purposes of clarity and conservative management of white seabass in the absence of direct stock abundance estimates. These changes include a change in the proposed definition of *Allowable Biological Catch (ABC)* to clarify that *ABC* means "allowable catch" in addition to the originally proposed "range of allowable catch", and a modification in the definition to reflect that the *ABC* is set by the "Commission and is based on recommendations of the Department or other scientific advisors in proposed Subsection 50.01(a). Secondly, the proposed "Allocation" regulation for white seabass is amended to provide for allocation in weights other than pounds if needed, and to clarify that criteria to be considered by the Commission when allocating harvests are to be "at least" those criteria included under the allocation section proposed as subsections 51.04(a) and (b). Finally, the regulatory changes would add a suboption (B2) to the originally proposed four options under Harvest Control Rules that would set the maximum pounds of white seabass that may be taken in the sport and commercial fisheries at 1.2 million pounds. The 1.2 million pounds of new option B2 is intermediate between the options originally proposed that range from no ceiling on annual harvests [Status Quo under Option A of Section 51.05(a)(1)], to 283,979 pounds [under Suboption C3 of Section 51.05(a)(3)].

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the **City Council Chambers, 333 W. Ocean Boulevard, Long Beach, CA, on Friday, April 5, 2002, at 8:30 a.m., or as soon thereafter as the matter may be heard.**

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the **City Council Chambers, 2600 Fresno Street,**

**2nd Floor, Fresno, CA, on Thursday, May 9, 2002, at 9:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments may be submitted on or before May 3, 2002, at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@dfg.ca.gov](mailto:FGC@dfg.ca.gov), but must be received no later than May 9, 2002 at the hearing in Fresno.** E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based, are on file and available for public review from the agency contact person, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Tracy L. Reed at the preceding phone number. Don Schultze, (916) 227-5670, Department of Fish and Game, has been designated to respond to questions on the substance of the proposed regulations. Copies of the statement of reasons, including the regulatory language, may be obtained from the above address.

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

#### IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, including the Ability of California Businesses to Compete with Businesses in Other States:

The Proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

No changes are being proposed at this time in season, size, bag, and gear provision in conjunction with adoption of White Seabass FMP implementing regulations. Therefore, there are no expected economic impacts associated with adoption of those provisions as regulations.

The original Notice of Proposed Change in Regulations and Initial Statement of Reasons in support of adoption of implementing regulations, included a discussion of a sport/commercial allocation ratio for annual white seabass catches that would have allocated 55 percent of annual harvest to the sport fishery, and 45 percent to the commercial fishery. An allocation ratio becomes a factor in adopting management restriction only at the point where the total annual harvest (optimum yield or OY) for both fisheries is reached during a year, which is not expected to occur in the white seabass fisheries for a number of years. The current preferred harvest control rule, Option B2, of proposed Section 51.05, would set the ceiling for annual harvest at 1.2 million pounds, a level of harvest above current total white seabass harvests.

No allocation ratio is proposed as a part of these White Seabass FMP implementing regulations. However, a discussion of the potential impacts of such an allocation was provided in the original Notice of Proposed Changes in Regulations, and in a discussion of impacts in the Initial Statement of Reasons because of potential future impacts of allocation on the fisheries should catches increase in the future and should catches be allocated in the 55:45 harvest ratio which had been tentatively discussed during ad hoc White Seabass Advisory Committee meetings prior to the initial Publication of Notice of the regulations. Subsequent to the original publication of notice of the regulation changes, consideration of a specific allocation ratio for use in the future was discouraged by the Advisory Committee and concurred in by the Department at this time, even though, as indicated above, no reference to an allocation ratio was included in the White Seabass FMP or the proposed implementing regulations. Rather, development of an allocation ratio was encouraged following adoption of the White Seabass FMP and implementing regulations, and following the establishment of the White Seabass Scientific and Constituent Advisory Panel.

Due to the likelihood that allocation of white seabass annual harvests will not be needed for a period of years, and that a 55:45 percent allocation ratio of white seabass annual harvests between fisheries is not being considered at this time, a discussion of the potential effects of that allocation



was eliminated. Consequently, there is no expected significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

No other significant effects of the proposed regulatory changes, economic or otherwise, are anticipated on jobs, representative private persons or businesses, costs or savings to State agencies or costs/savings in Federal funding to the state, nondiscretionary costs/savings to local agencies, programs mandated on local agencies or school districts, costs imposed on any local agency or school district that is required to reimbursed under Part 7 of Division 4, and effects on housing costs, as indicated in the Initial Statement of Reasons.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:  
The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State agencies or Costs/Savings in Federal funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

#### CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## DEPARTMENT OF TOXIC SUBSTANCES CONTROL

### HOUSEHOLD HAZARDOUS WASTE UNIT STATE REGULATORY PROGRAMS DIVISION PUBLIC NOTICE FOR VARIANCE ISSUANCE

On February 1, 2002, the State Regulatory Programs Division of the Department of Toxic Substances Control (DTSC) issued a conditionally exempt small quantity generator (CESQG) transportation and manifesting variance renewal to El Dorado County. Authority for this action is contained in Health and Safety Code, section 25143. The variance authorizes El Dorado County household hazardous waste collection facilities to accept and qualified small businesses to transport up to 100 kilograms (220 pounds/27 gallons) of hazardous waste at one time per month without meeting registered transporter or hazardous waste manifest requirements. Specific standards exempted are contained in Health and Safety code, sections 25163 and 25160 respectively. Transported waste is shipped in accordance with federal Department of Transportation, California Highway Patrol, and California Vehicle Code requirements. For additional information contact Lee Halverson of at the Department of Toxic Substances Control, Household Hazardous Waste Unit at (510) 540-3894.

### HOUSEHOLD HAZARDOUS WASTE UNIT STATE REGULATORY PROGRAMS DIVISION PUBLIC NOTICE FOR VARIANCE ISSUANCE

On February 1, 2002, the State Regulatory Programs Division of the Department of Toxic Substances Control (DTSC) issued a manifest variance renewal to El Dorado County. Authority for this action is contained in Health and Safety Code, section 25143. The variance authorizes El Dorado County's Environmental Management Department's household hazardous waste (HHW) collection facilities operating under permit-by-rule (PBR) to transfer collected wastes to other county operated HHW collection facilities operating under PBR using a bill-of-lading shipping paper in lieu of a hazardous waste manifest. This shipping paper includes federal Department of Transportation shipping names and the wastes are packaged and transported in accordance with federal Department of Transportation, California Highway Patrol, and California Vehicle Code requirements. Manifest standards exempted are contained in Health and Safety Code, section 25160. For additional information contact Lee Halverson at the Department of Toxic Substances Control, Household Hazardous Waste Unit at (510) 540-3894.



**HOUSEHOLD HAZARDOUS WASTE UNIT  
STATE REGULATORY PROGRAMS DIVISION  
PUBLIC NOTICE FOR VARIANCE ISSUANCE**

On February 11, 2002, the State Regulatory Programs Division of the Department of Toxic Substances Control (DTSC) issued a variance renewal to the City of Santa Clara. Authority for this action is contained in Health and Safety Code, section 25143. The variance was issued to conduct residential household hazardous waste collections. This variance authorizes the City of Santa Clara to collect household hazardous wastes (HHW) from the elderly, handicapped residents, and others unable to participate in the regular HHW collection program. The wastes are to be collected during their annual cleanup campaign and consolidated with the wastes collected during their temporary HHW collection program. No business or agricultural wastes are collected under this variance. Specific standards exempted are contained in the Health and Safety Code, section 25201 and California Code of Regulations, title 22, division 4.5, chapter 20. The collections are subject to strict operating standards specified in the variance. For additional information contact Lee Halverson at the Department of Toxic Substances Control, Household Hazardous Waste Unit at (510) 540-3894.

**PROPOSITION 65**

**CALIFORNIA ENVIRONMENTAL  
PROTECTION AGENCY  
OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

SAFE DRINKING WATER AND TOXIC  
ENFORCEMENT ACT OF 1986  
(Proposition 65)

NOTICE TO INTERESTED PARTIES  
March 15, 2002

CHEMICAL LISTED EFFECTIVE  
**March 18, 2002**  
AS KNOWN TO THE STATE OF CALIFORNIA  
TO CAUSE REPRODUCTIVE TOXICITY

The Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency is adding *triphenyltin hydroxide* to the list of chemicals known to the State to cause reproductive toxicity for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65). The listing of *triphenyltin hydroxide* is effective **March 18, 2002**.

*Triphenyltin hydroxide* (CAS # 76-87-9) is listed as a chemical known to the State to cause reproductive toxicity for the developmental toxicity endpoint. The listing of triphenyltin hydroxide is based on a formal identification by an authoritative body that the chemical causes developmental toxicity pursuant to an administrative listing mechanism provided under Proposition 65. Regulations governing the listing of chemicals under the "authoritative bodies" mechanism are published in Title 22, California Code of Regulations, Section 12306 (22 CCR 12306).

The reader is directed to the *Notice of Intent to List Triphenyltin Hydroxide* published in the January 18, 2002, issue of the *California Regulatory Notice Register* (Register 02, No. 3-Z) for the supporting documentation for the chemical *triphenyltin hydroxide*, which OEHHA relied upon in making its determination that the criteria for administrative listing have been satisfied.

A complete, updated chemical list is published elsewhere in this issue of the *California Regulatory Notice Register*.

In summary, the following chemical is added to the Proposition 65 chemical list as known to the State to cause reproductive toxicity:

Reproductive toxicity

Chemical	CAS No.	Endpoint	Listing Mechanism <sup>1</sup>
Triphenyltin hydroxide	76-87-9	Developmental toxicity	AB

**CALIFORNIA ENVIRONMENTAL  
PROTECTION AGENCY  
OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

SAFE DRINKING WATER AND TOXIC  
ENFORCEMENT ACT OF 1986  
(PROPOSITION 65)

NOTICE TO INTERESTED PARTIES  
March 15, 2002

AVAILABILITY OF THE STATUS REPORT ON  
NO SIGNIFICANT RISK LEVELS FOR  
CARCINOGENS AND  
MAXIMUM ALLOWABLE DAILY LEVELS  
FOR CHEMICALS CAUSING  
REPRODUCTIVE TOXICITY

The Office of Environmental Health Hazard Assessment (OEHHA) announces the availability of the latest update of the "Status Report on No Significant Risk Levels for Carcinogens and Maximum Allowable Daily Levels for Chemicals Causing Reproductive Toxicity." Several chemicals were added to the

<sup>1</sup> Listing mechanism:

AB—"authoritative bodies" mechanism (22 CCR 12306)

Proposition 65 chemical list since this document was last released in February 2001. The document reflects the incorporation of the newly added chemicals into the priority categories for future development of a safe harbor number. OEHHA continues its effort to develop new safe harbor numbers and expects to update the document accordingly as needed. Copies of the document are available from the OEHHA Web site at [www.oehha.ca.gov](http://www.oehha.ca.gov) or from the Proposition 65 Implementation office at P.O. Box 4010, Sacramento, California 95812-4010 or by calling (916) 445-6900.

Questions concerning this notice may be directed to Ms. Cynthia Oshita at (916) 445-6900.

**STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC  
ENFORCEMENT ACT OF 1986**

**CHEMICALS KNOWN TO THE STATE  
TO CAUSE CANCER OR  
REPRODUCTIVE TOXICITY  
MARCH 15, 2002**

The Safe Drinking Water and Toxic Enforcement Act of 1986 requires that the Governor revise and republish at least once per year the list of chemicals known to the State to cause cancer or reproductive toxicity. The identification number indicated in the following list is the Chemical Abstracts Service (CAS) Registry Number. No CAS number is given when several substances are presented as a single listing. The date refers to the initial appearance of the chemical on the list. For easy reference, chemicals which are shown underlined are newly added. Chemicals which are shown with a ~~strikeout~~ were placed on the list with the date noted, and have subsequently been removed.

**CHEMICALS KNOWN TO THE STATE  
TO CAUSE CANCER**

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
A-alpha-C (2-Amino-9H-pyrido[2,3-b]indole)	26148685	January 1, 1990
Acetaldehyde	75070	April 1, 1988
Acetamide	60355	January 1, 1990
Acetochlor	34256821	January 1, 1989
2-Acetylaminofluorene	53963	July 1, 1987
Acifluorfen	62476599	January 1, 1990
Acrylamide	79061	January 1, 1990
Acrylonitrile	107131	July 1, 1987
Actinomycin D	50760	October 1, 1989
Adriamycin (Doxorubicin hydrochloride)	23214928	July 1, 1987

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
AF-2;[2-(2-furyl)-3-(5-nitro-2-furyl)]acrylamide	3688537	July 1, 1987
Aflatoxins	—	January 1, 1988
Alachlor	15972608	January 1, 1989
Alcoholic beverages, when associated with alcohol abuse	—	July 1, 1988
Aldrin	309002	July 1, 1988
<del>Allyl chloride</del> Delisted October 29, 1999	407051	<del>January 1, 1990</del>
2-Aminoanthraquinone	117793	October 1, 1989
p-Aminoazobenzene	60093	January 1, 1990
ortho-Aminoazotoluene	97563	July 1, 1987
4-Aminobiphenyl (4-aminodiphenyl)	92671	February 27, 1987
1-Amino-2,4-dibromoanthraquinone	81492	August 26, 1997
3-Amino-9-ethylcarbazole hydrochloride	6109973	July 1, 1989
2-Aminofluorene	153786	January 29, 1999
1-Amino-2-methylantraquinone	82280	October 1, 1989
2-Amino-5-(5-nitro-2-furyl)-1,3,4-thiadiazole	712685	July 1, 1987
4-Amino-2-nitrophenol	119346	January 29, 1999
Amitrole	61825	July 1, 1987
Analgesic mixtures containing phenacetin	—	February 27, 1987
Aniline	62533	January 1, 1990
Aniline hydrochloride	142041	May 15, 1998
ortho-Anisidine	90040	July 1, 1987
ortho-Anisidine hydrochloride	134292	July 1, 1987
Antimony oxide (Antimony trioxide)	1309644	October 1, 1990
Aramite	140578	July 1, 1987
Arsenic (inorganic arsenic compounds)	—	February 27, 1987
Asbestos	1332214	February 27, 1987
Auramine	492808	July 1, 1987
Azacitidine	320672	January 1, 1992
Azaserine	115026	July 1, 1987
Azathioprine	446866	February 27, 1987
Azobenzene	103333	January 1, 1990
Benz[a]anthracene	56553	July 1, 1987
Benzene	71432	February 27, 1987
Benzidine [and its salts]	92875	February 27, 1987
Benzidine-based dyes	—	October 1, 1992
Benzo[b]fluoranthene	205992	July 1, 1987
Benzo[j]fluoranthene	205823	July 1, 1987
Benzo[k]fluoranthene	207089	July 1, 1987
Benzoofuran	271896	October 1, 1990
Benzo[a]pyrene	50328	July 1, 1987
Benzotrichloride	98077	July 1, 1987
Benzyl chloride	100447	January 1, 1990
Benzyl violet 4B	1694093	July 1, 1987
Beryllium and beryllium compounds	—	October 1, 1987
Betel quid with tobacco	—	January 1, 1990
2,2-Bis(bromomethyl)-1,3-propanediol	3296900	May 1, 1996
Bis(2-chloroethyl)ether	111444	April 1, 1988

**CALIFORNIA REGULATORY NOTICE REGISTER 2002, VOLUME NO. 11-Z**

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>	<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
N,N-Bis(2-chloroethyl)-2-naphthylamine (Chlor- napazine)	494031	February 27, 1987	4-Chloro-ortho-phenylenedia- mine	95830	January 1, 1988
Bischloroethyl nitrosourea (BCNU)(Carmustine)	154938	July 1, 1987	p-Chloro-o-toluidine	95692	January 1, 1990
Bis(chloromethyl)ether	542881	February 27, 1987	p-Chloro-o-toluidine, strong acid salts of	—	May 15, 1998
Bis(2-chloro-1-methylethyl)ether, technical grade	—	October 29, 1999	5-Chloro-o-toluidine and its strong acid salts	—	October 24, 1997
Bitumens, extracts of	—	January 1, 1990	Chloroprene	126998	June 2, 2000
steam-refined and air refined	—	January 1, 1990	Chlorothalonil	1897456	January 1, 1989
Bracken fern	—	January 1, 1990	Chlorotrianisene	569573	September 1, 1996
Bromodichloromethane	75274	January 1, 1990	Chlorozotocin	54749905	January 1, 1992
Bromoethane	74964	December 22, 2000	Chromium (hexavalent compounds)	—	February 27, 1987
Bromoform	75252	April 1, 1991	Chrysene	218019	January 1, 1990
1,3-Butadiene	106990	April 1, 1988	C.I. Acid Red 114	6459945	July 1, 1992
1,4-Butanediol dimethanesulfonate (Busulfan)	55981	February 27, 1987	C.I. Basic Red 9 monohydrochloride	569619	July 1, 1989
Butylated hydroxyanisole	25013165	January 1, 1990	C.I. Direct Blue 15	2429745	August 26, 1997
beta-Butyrolactone	3068880	July 1, 1987	C.I. Direct Blue 218	28407376	August 26, 1997
Cacodylic acid	75605	May 1, 1996	C.I. Solvent Yellow 14	842079	May 15, 1998
Cadmium and cadmium compounds	—	October 1, 1987	Ciclosporin (Cyclosporin A; Cyclosporine)	59865133	January 1, 1992
Caffeic acid	331395	October 1, 1994	Cidofovir	79217600	January 29, 1999
Captafol	2425061	October 1, 1988	Cinnamyl anthranilate	113852372	January 1, 1989
Captan	133062	January 1, 1990	Cisplatin	87296	October 1, 1988
Carbazole	86748	May 1, 1996	Citrus Red No. 2	15663271	October 1, 1989
Carbon tetrachloride	56235	October 1, 1987	Clofibrate	6358538	September 1, 1996
Carbon-black extracts	—	January 1, 1990	Cobalt metal powder	637070	July 1, 1992
N-Carboxymethyl-N- nitrosourea	60391926	January 25, 2002	Cobalt [II] oxide	7440484	July 1, 1992
Ceramic fibers (airborne particles of respirable size)	—	July 1, 1990	Cobalt sulfate heptahydrate	1307966	June 2, 2000
Certain combined chemotherapy for lymphomas	—	February 27, 1987	Coke oven emissions	10026241	February 27, 1987
Chlorambucil	305033	February 27, 1987	Conjugated estrogens	—	February 27, 1987
Chloramphenicol	56757	October 1, 1989	Creosotes	—	October 1, 1988
Chlordane	57749	July 1, 1988	para-Cresidine	120718	January 1, 1988
Chlordecone (Kepone)	143500	January 1, 1988	Cupferron	135206	January 1, 1988
Chlordimeform	6164983	January 1, 1989	Cycasin	14901087	January 1, 1988
Chlorendic acid	115286	July 1, 1989	Cyclophosphamide (anhydrous)	50180	February 27, 1987
Chlorinated paraffins (Average chain length, C12; approximately 60 percent chlorine by weight)	108171262	July 1, 1989	Cyclophosphamide (hydrated)	6055192	February 27, 1987
p-Chloroaniline	106478	October 1, 1994	Cytembena	21739913	May 15, 1998
p-Chloroaniline hydrochloride	20265967	May 15, 1998	D&C Orange No. 17	3468631	July 1, 1990
<del>Chlorodibromomethane</del> Delisted October 29, 1999	<del>124481</del>	<del>January 1, 1990</del>	D&C Red No. 8	2092560	October 1, 1990
Chloroethane (Ethyl chloride)	75003	July 1, 1990	D&C Red No. 9	5160021	July 1, 1990
1-(2-Chloroethyl)-3-cyclohexyl-1- nitrosourea (CCNU)	13010474	January 1, 1988	D&C Red No. 19	81889	July 1, 1990
(Lomustine)	—	—	Dacarbazine	4342034	January 1, 1988
1-(2-Chloroethyl)-3-(4- methylcyclohexyl)-1- nitrosourea (Methyl- CCNU)	13909096	October 1, 1988	Daminozide	1596845	January 1, 1990
Chloroform	67663	October 1, 1987	Dantron (Chrysazin; 1,8-Dihydroxyanthraqui- none)	117102	January 1, 1992
Chloromethyl methyl ether (technical grade)	107302	February 27, 1987	Daunomycin	20830813	January 1, 1988
3-Chloro-2-methylpropene	563473	July 1, 1989	DDD (Dichlorodiphenyldichloro- ethane)	72548	January 1, 1989
1-Chloro-4-nitrobenzene	100005	October 29, 1999	DDE (Dichlorodiphenyldichloro- ethylene)	72559	January 1, 1989
			DDT (Dichlorodiphenyltrichloro- ethane)	50293	October 1, 1987
			DDVP (Dichlorvos)	62737	January 1, 1989
			N,N'-Diacetylbenzidine	613354	October 1, 1989
			2,4-Diaminoanisole	615054	October 1, 1990
			2,4-Diaminoanisole sulfate	39156417	January 1, 1988

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>	<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
4,4'-Diaminodiphenyl ether (4,4'-Oxydianiline)	101804	January 1, 1988	1,6-Dinitropyrene	42397648	October 1, 1990
2,4-Diaminotoluene	95807	January 1, 1988	1,8-Dinitropyrene	42397659	October 1, 1990
Diaminotoluene (mixed)	—	January 1, 1990	Dinitrotoluene mixture, 2,4-/2,6-	—	May 1, 1996
Dibenz[a,h]acridine	226368	January 1, 1988	2,4-Dinitrotoluene	121142	July 1, 1988
Dibenz[a,j]acridine	224420	January 1, 1988	2,6-Dinitrotoluene	606202	July 1, 1995
Dibenz[a,h]anthracene	53703	January 1, 1988	Di-n-propyl isocinchomer- onate (MGK Repellent 326)	136458	May 1, 1996
7H-Dibenzo[c,g]carbazole	194592	January 1, 1988	1,4-Dioxane	123911	January 1, 1988
Dibenzo[a,e]pyrene	192654	January 1, 1988	Diphenylhydantoin (Pheny- toin)	57410	January 1, 1988
Dibenzo[a,h]pyrene	189640	January 1, 1988	Diphenylhydantoin (Phenytoin), sodium salt	630933	January 1, 1988
Dibenzo[a,i]pyrene	189559	January 1, 1988	Direct Black 38 (technical grade)	1937377	January 1, 1988
Dibenzo[a,l]pyrene	191300	January 1, 1988	Direct Blue 6 (technical grade)	2602462	January 1, 1988
1,2-Dibromo-3-chloropropane (DBCP)	96128	July 1, 1987	Direct Brown 95 (technical grade)	16071866	October 1, 1988
2,3-Dibromo-1-propanol	96139	October 1, 1994	Disperse Blue 1	2475458	October 1, 1990
Dichloroacetic acid	79436	May 1, 1996	Epichlorohydrin	106898	October 1, 1987
p-Dichlorobenzene	106467	January 1, 1989	Erionite	12510428	October 1, 1988
3,3'-Dichlorobenzidine	91941	October 1, 1987	Estradiol 17B	50282	January 1, 1988
3,3'-Dichlorobenzidine dihydrochloride	612839	May 15, 1998	Estragole	140670	October 29, 1999
1,4-Dichloro-2-butene	764410	January 1, 1990	Estrone	53167	January 1, 1988
3,3'-Dichloro-4,4'-diaminodiphenyl ether	28434868	January 1, 1988	Estropipate	7280377	August 26, 1997
1,1-Dichloroethane	75343	January 1, 1990	Ethinylestradiol	57636	January 1, 1988
Dichloromethane (Methylene chloride)	75092	April 1, 1988	Ethoprop	13194484	February 27, 2001
1,2-Dichloropropane	78875	January 1, 1990	Ethyl acrylate	140885	July 1, 1989
1,3-Dichloropropene	542756	January 1, 1989	Ethyl methanesulfonate	62500	January 1, 1988
Dieldrin	60571	July 1, 1988	Ethyl-4,4'-dichloro- benzilate	510156	January 1, 1990
Dienestrol	84173	January 1, 1990	Ethylene dibromide	106934	July 1, 1987
Diepoxybutane	1464535	January 1, 1988	Ethylene dichloride (1,2-Dichloroethane)	107062	October 1, 1987
Diesel engine exhaust	—	October 1, 1990	Ethylene oxide	75218	July 1, 1987
Di(2-ethylhexyl)phthalate	117817	January 1, 1988	Ethylene thiourea	96457	January 1, 1988
1,2-Diethylhydrazine	1615801	January 1, 1988	Ethyleneimine	151564	January 1, 1988
Diethyl sulfate	64675	January 1, 1988	Fenoxycarb	72490018	June 2, 2000
Diethylstilbestrol (DES)	56531	February 27, 1987	Folpet	133073	January 1, 1989
Diglycidyl resorcinol ether (DGRE)	101906	July 1, 1989	Formaldehyde (gas)	50000	January 1, 1988
Dihydrosafrole	94586	January 1, 1988	2-(2-Formylhydrazino)-4- (5-nitro-2-furyl)thiazole	3570750	January 1, 1988
Diisopropyl sulfate	2973106	April 1, 1993	Furan	110009	October 1, 1993
3,3'-Dimethoxybenzidine (ortho-Dianisidine)	119904	January 1, 1988	Furazolidone	67458	January 1, 1990
3,3'-Dimethoxybenzidine dihydrochloride (ortho-Dianisidine dihydrochloride)	20325400	October 1, 1990	Furmecyclox	60568050	January 1, 1990
Dimethyl sulfate	77781	January 1, 1988	Fusarin C	79748815	July 1, 1995
4-Dimethylaminoazo- benzene	60117	January 1, 1988	Ganciclovir sodium	82410320	August 26, 1997
trans-2-[(Dimethyl- amino)methylimino]-5- [2-(5-nitro-2-furyl)vinyl]- 1,3,4-oxadiazole	55738540	January 1, 1988	Gasoline engine exhaust (condensates/extracts)	—	October 1, 1990
7,12-Dimethylbenz(a) anthracene	57976	January 1, 1990	Gemfibrozil	25812300	December 22, 2000
3,3'-Dimethylbenzidine (ortho-Tolidine)	119937	January 1, 1988	Glasswool fibers (airborne particles of respirable size)	—	July 1, 1990
3,3'-Dimethylbenzidine dihydrochloride	612828	April 1, 1992	Glu-P-1 (2-Amino-6- methylidiprido[1,2- a:3',2'-d]imidazole)	67730114	January 1, 1990
Dimethylcarbamoyl chloride	79447	January 1, 1988	Glu-P-2 (2-Aminodipyri- do[1,2-a:3',2'-d]imida- zole)	67730103	January 1, 1990
1,1-Dimethylhydrazine (UDMH)	57147	October 1, 1989	Glycidaldehyde	765344	January 1, 1988
1,2-Dimethylhydrazine	540738	January 1, 1988	Glycidol	556525	July 1, 1990
Dimethylvinylchloride	513371	July 1, 1989			
3,7-Dinitrofluoranthene	105735715	August 26, 1997			
3,9-Dinitrofluoranthene	22506532	August 26, 1997			



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<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>	<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Griseofulvin	126078	January 1, 1990	2-Methylaziridine (Propyleneimine)	75558	January 1, 1988
Gyromitrin (Acetaldehyde methylformylhydra- zone)	16568028	January 1, 1988	Methylazoxymethanol	590965	April 1, 1988
HC Blue 1	2784943	July 1, 1989	Methylazoxymethanol acetate	592621	April 1, 1988
Heptachlor	76448	July 1, 1988	Methyl carbamate	598550	May 15, 1988
Heptachlor epoxide	1024573	July 1, 1988	3-Methylcholanthrene	56495	January 1, 1990
Hexachlorobenzene	118741	October 1, 1987	5-Methylchrysene	3697243	April 1, 1988
Hexachlorocyclohexane (technical grade)	—	October 1, 1987	4,4'-Methylene bis (2-chloroaniline)	101144	July 1, 1987
Hexachlorodibenzo- dioxin	34465468	April 1, 1988	4,4'-Methylene bis(N,N-dimethyl) benzenamine	101611	October 1, 1989
Hexachloroethane	67721	July 1, 1990	4,4'-Methylene bis (2-methylaniline)	838880	April 1, 1988
Hexamethylphosphora- mide	680319	January 1, 1988	4,4'-Methylenedianiline	101779	January 1, 1988
Hydrazine	302012	January 1, 1988	4,4'-Methylenedianiline dihydrochloride	13552448	January 1, 1988
Hydrazine sulfate	10034932	January 1, 1988	Methyleugenol	93152	November 16, 2001
Hydrazobenzene (1,2-Diphenylhydrazine)	122667	January 1, 1988	Methylhydrazine and its salts	—	July 1, 1992
Indeno [1,2,3-cd]pyrene	193395	January 1, 1988	Methyl iodide	74884	April 1, 1988
Indium phosphide	22398807	February 27, 2001	Methylmercury compounds	—	May 1, 1996
IQ (2-Amino-3- methylimidazo[4,5-f] quinoline)	76180966	April 1, 1990	Methyl methanesulfonate	66273	April 1, 1988
Iprodione	36734197	May 1, 1996	2-Methyl-1-nitroanthraquin- one (of uncertain purity)	129157	April 1, 1988
Iron dextran complex	9004664	January 1, 1988	N-Methyl-N'-nitro-N- nitrosoguanidine	70257	April 1, 1988
Isobutyl nitrite	542563	May 1, 1996	N-Methylolacrylamide	924425	July 1, 1990
Isoptrene	78795	May 1, 1996	Methylthiouracil	56042	October 1, 1989
Isosafrole	120581	October 1, 1989	Metiram	9006422	January 1, 1990
Isoxaflutole	141112290	December 22, 2000	Metronidazole	443481	January 1, 1988
Lactofen	77501634	January 1, 1989	Michler's ketone	90948	January 1, 1988
Lasiocarpine	303344	April 1, 1988	Mirex	2385855	January 1, 1988
Lead acetate	301042	January 1, 1988	Mitomycin C	50077	April 1, 1988
Lead and lead compounds	—	October 1, 1992	Monocrotaline	315220	April 1, 1988
Lead phosphate	7446277	April 1, 1988	5-(Morpholinomethyl)-3-[(5-nitro- furfurylidene)- amino]-2-oxalolidinone	139913	April 1, 1988
Lead subacetate	1335326	October 1, 1989	Mustard Gas	505602	February 27, 1987
Lindane and other hexachlorocyclohexane isomers	—	October 1, 1989	MX (3-chloro-4-dichloromethyl-5- hydroxy-2(5H)-furanone)	77439760	December 22, 2000
Lynestrenol	52766	February 27, 2001	Nafenopin	3771195	April 1, 1988
Mancozeb	8018017	January 1, 1990	Nalidixic acid	389082	May 15, 1998
Maneb	12427382	January 1, 1990	1-Naphthylamine	134327	October 1, 1989
Me-A-alpha-C (2-Amino-3- methyl-9H-pyrido[2,3-b] indole)	68006837	January 1, 1990	2-Naphthylamine	91598	February 27, 1987
Medroxyprogesterone acetate	71589	January 1, 1990	Nickel and certain nickel compounds	—	October 1, 1989
MeIQ(2-Amino-3,4- dimethylimidazo[4,5-f] quinoline)	77094112	October 1, 1994	Nickel carbonyl	13463393	October 1, 1987
MeIQx(2-Amino-3,8- dimethylimidazo[4,5-f] quinoxaline)	7500040	October 1, 1994	Nickel refinery dust from the pyrometallurgical process	—	October 1, 1987
Melphalan	148823	February 27, 1987	Nickel subsulfide	12035722	October 1, 1987
Merphalan	531760	April 1, 1988	Niridazole	61574	April 1, 1988
Mestranol	72333	April 1, 1988	Nitrolictriacetic acid	139139	January 1, 1988
Metham sodium	137428	November 6, 1998	Nitrolictriacetic acid, tri- sodium salt mono- hydrate	18662538	April 1, 1989
8-Methoxypsoralen with ultraviolet A therapy	298817	February 27, 1987	5-Nitroacenaphthene	602879	April 1, 1988
5-Methoxypsoralen with ultraviolet A therapy	484208	October 1, 1988	5-Nitro-o-anisidine	99592	October 1, 1989
			o-Nitroanisole	91236	October 1, 1992
			Nitrobenzene	98953	August 26, 1997
			4-Nitrobiphenyl	92933	April 1, 1988
			6-Nitrochrysene	7496028	October 1, 1990
			Nitrofen (technical grade)	1836755	January 1, 1988

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>	<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
2-Nitrofluorene	607578	October 1, 1990	Phenesterin	3546109	July 1, 1989
Nitrofurazone	59870	January 1, 1990	Phenobarbital	50066	January 1, 1990
1-[(5-Nitrofurfurylidene)-amino]- 2-imidazolidinone	555840	April 1, 1988	Phenolphthalein	77098	May 15, 1998
N-[4-(5-Nitro-2-furyl)-2- thiazolyl]acetamide	531828	April 1, 1988	Phenoxybenzamine	59961	April 1, 1988
Nitrogen mustard (Mechlorethamine)	51752	January 1, 1988	hydrochloride	63923	April 1, 1988
Nitrogen mustard hydrochloride (Mechlorethamine hydrochloride)	55867	April 1, 1988	o-Phenylenediamine and its salts	95545	May 15, 1998
Nitrogen mustard N-oxide	126852	April 1, 1988	Phenyl glycidyl ether	122601	October 1, 1990
Nitrogen mustard N-oxide hydrochloride	302705	April 1, 1988	Phenylhydrazine and its salts	—	July 1, 1992
Nitromethane	75525	May 1, 1997	o-Phenylphenate, sodium	132274	January 1, 1990
2-Nitropropane	79469	January 1, 1988	o-Phenylphenol	90437	August 4, 2000
1-Nitropyrene	5522430	October 1, 1990	PhiP(2-Amino-1-methyl-6- phenylimidazol[4,5-b] pyridine)	105650235	October 1, 1994
4-Nitropyrene	57835924	October 1, 1990	Polybrominated biphenyls	—	January 1, 1988
N-Nitrosodi-n-butylamine	924163	October 1, 1987	Polychlorinated biphenyls	—	October 1, 1989
N-Nitrosodiethanolamine	1116547	January 1, 1988	Polychlorinated biphenyls (containing 60 or more percent chlorine by molecular weight)	—	January 1, 1988
N-Nitrosodiethylamine	55185	October 1, 1987	Polychlorinated dibenzo-p-dioxins	—	October 1, 1992
N-Nitrosodimethylamine	62759	October 1, 1987	Polychlorinated dibenzofurans	—	October 1, 1992
p-Nitrosodiphenylamine	156105	January 1, 1988	Polygeenan	53973981	January 1, 1988
N-Nitrosodiphenylamine	86306	April 1, 1988	Ponceau MX	3761533	April 1, 1988
N-Nitrosodi-n-propylamine	621647	January 1, 1988	Ponceau 3R	3564098	April 1, 1988
N-Nitroso-N-ethylurea	759739	October 1, 1987	Potassium bromate	7758012	January 1, 1990
3-(N-Nitrosomethylamino) propionitrile	60153493	April 1, 1990	Primidone	125337	August 20, 1999
4-(N-Nitrosomethylam- ino)-1-(3-pyridyl)1- butanone	64091914	April 1, 1990	Procarbazine	671169	January 1, 1988
N-Nitrosomethylethyl- amine	10595956	October 1, 1989	Procarbazine hydrochloride	366701	January 1, 1988
N-Nitroso-N-methylurea	684935	October 1, 1987	Procymidone	32809168	October 1, 1994
N-Nitroso-N-methylurethane	615532	April 1, 1988	Progesterone	57830	January 1, 1988
N-Nitrosomethylvinyl- amine	4549400	January 1, 1988	Pronamide	23950585	May 1, 1996
N-Nitrosomorpholine	59892	January 1, 1988	Propachlor	1918167	February 27, 2001
N-Nitrosornicotine	16543558	January 1, 1988	1,3-Propane sultone	1120714	January 1, 1988
N-Nitrosopiperidine	100754	January 1, 1988	Propargite	2312358	October 1, 1994
N-Nitrosopyrrolidine	930552	October 1, 1987	beta-Propiolactone	57578	January 1, 1988
N-Nitrososarcosine	13256229	January 1, 1988	Propylene oxide	75569	October 1, 1988
o-Nitrotoluene	88722	May 15, 1998	Propylthiouracil	51525	January 1, 1988
Norethisterone (Norethin- drone)	68224	October 1, 1989	Quinoline and its strong acid salts	—	October 24, 1997
Norethynodrel	68235	February 27, 2001	Radionuclides	—	July 1, 1989
Ochratoxin A	303479	July 1, 1990	Reserpine	50555	October 1, 1989
Oil Orange SS	2646175	April 1, 1988	Residual (heavy) fuel oils	—	October 1, 1990
Oral contraceptives, combined	—	October 1, 1989	<b>Saccharin</b>		
Oral contraceptives, sequential	—	October 1, 1989	Delisted April 6, 2001	81072	October 1, 1989
Oxadiazon	19666309	July 1, 1991	Saccharin, sodium	128449	January 1, 1988
Oxazepam	604751	October 1, 1994	Safrole	94597	January 1, 1988
Oxymetholone	434071	January 1, 1988	Salicylazosulfapyridine	599791	May 15, 1998
Oxythioquinox	2439012	August 20, 1999	Selenium sulfide	7446346	October 1, 1989
Palygorskite fibers (>5µm in length)	12174117	December 28, 1999	Shale-oils	68308349	April 1, 1990
Panfuran S	794934	January 1, 1988	Silica, crystalline (airborne particles of respirable size)	—	October 1, 1988
Pentachlorophenol	87865	January 1, 1990	Soots, tars, and mineral oils (untreated and mildly treated oils and used engine oils)	—	February 27, 1987
Phenacetin	62442	October 1, 1989	Spirolactone	52017	May 1, 1997
Phenazopyridine	94780	January 1, 1988	Stanozolol	10418038	May 1, 1997
Phenazopyridine hydrochloride	136403	January 1, 1988	Sterigmatocystin	10048132	April 1, 1988
			Streptozotocin (streptozocin)	18883664	January 1, 1988
			Styrene oxide	96093	October 1, 1988
			Sulfallate	95067	January 1, 1988
			Talc containing asbestiform fibers	—	April 1, 1990
			Tamoxifen and its salts	10540291	September 1, 1996

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Terrazole	2593159	October 1, 1994
Testosterone and its esters	58220	April 1, 1988
2,3,7,8-Tetrachlorodibenzo-para-dioxin (TCDD)	1746016	January 1, 1988
1,1,2,2-Tetrachloroethane	79345	July 1, 1990
Tetrachloroethylene (Perchloroethylene)	127184	April 1, 1988
p-a,a,a-Tetrachloro- toluene	5216251	January 1, 1990
Tetrafluoroethylene	116143	May 1, 1997
Tetranitromethane	509148	July 1, 1990
Thioacetamide	62555	January 1, 1988
4,4'-Thiodianiline	139651	April 1, 1988
Thiodicarb	59669260	August 20, 1999
Thiourea	62566	January 1, 1988
Thorium dioxide	1314201	February 27, 1987
Tobacco, oral use of smokeless products	—	April 1, 1988
Tobacco smoke	—	April 1, 1988
Toluene diisocyanate	26471625	October 1, 1989
ortho-Toluidine	95534	January 1, 1988
ortho-Toluidine hydrochloride	636215	January 1, 1988
<del>para-Toluidine</del> <del>Delisted October 29, 1999</del>	<del>406490</del>	<del>January 1, 1990</del>
Toxaphene (Polychlorinated camphenes)	8001352	January 1, 1988
Treosulfan	299752	February 27, 1987
Trichlormethine (Trimustine hydrochloride)	817094	January 1, 1992
Trichloroethylene	79016	April 1, 1988
2,4,6-Trichlorophenol	88062	January 1, 1988
1,2,3-Trichloropropane	96184	October 1, 1992
Trimethyl phosphate	512561	May 1, 1996
2,4,5-Trimethylaniline and its strong acid salts	—	October 24, 1997
Triphenyltin hydroxide	76879	July 1, 1992
Tris(aziridinyl)-para-benzoquinone (Triaziquone)	68768	October 1, 1989
Tris(1-aziridinyl)phosphine sulfide (Thiotepa)	52244	January 1, 1988
Tris(2-chloroethyl) phosphate	115968	April 1, 1992
Tris(2,3-dibromopropyl)phos- phate	126727	January 1, 1988
Trp-P-1 (Tryptophan-P-1)	62450060	April 1, 1988
Trp-P-2 (Tryptophan-P-2)	62450071	April 1, 1988
Trypan blue (commercial grade)	72571	October 1, 1989
Unleaded gasoline (wholly vaporized)	—	April 1, 1988
Uracil mustard	66751	April 1, 1988
Urethane (Ethyl carbamate)	51796	January 1, 1988
Vinclozolin	50471448	August 20, 1999
Vinyl bromide	593602	October 1, 1988
Vinyl chloride	75014	February 27, 1987
4-Vinylcyclohexene	100403	May 1, 1996
4-Vinyl-1-cyclohexene diepoxide (Vinyl cyclohexene dioxide)	106876	July 1, 1990
Vinyl fluoride	75025	May 1, 1997
Vinyl trichloride (1,1,2-Trichloroethane)	79005	October 1, 1990

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
2,6-Xylidine (2,6-Dimethylaniline)	87627	January 1, 1991
Zileuton	111406872	December 22, 2000
<del>Zineb</del> <del>Delisted October 29, 1999</del>	<del>42122677</del>	<del>January 1, 1990</del>

**CHEMICALS KNOWN TO THE STATE TO  
CAUSE REPRODUCTIVE TOXICITY**

<i>Chemical</i>	<i>Type of Reproductive Toxicity</i>	<i>CAS No.</i>	<i>Date Listed</i>
Acetazolamide	developmental	59665	August 20, 1999
Acetohydroxamic acid	developmental	546883	April 1, 1990
Actinomycin D	developmental	50760	October 1, 1992
All-trans retinoic acid	developmental	302794	January 1, 1989
Alprazolam	developmental	28981977	July 1, 1990
Altretamine	developmental, male	645056	August 20, 1999
Amantadine hydrochloride	developmental	665667	February 27, 2001
Amikacin sulfate	developmental	39831555	July 1, 1990
Aminoglutethimide	developmental	125848	July 1, 1990
Aminoglycosides	developmental	—	October 1, 1992
Aminopterin	developmental, female	54626	July 1, 1987
Amiodarone hydrochloride	developmental, female, male	19774824	August 26, 1997
Amitraz	developmental	33089611	March 30, 1999
Amoxapine	developmental	14028445	May 15, 1998
Anabolic steroids	female, male	—	April 1, 1990
Angiotensin converting enzyme (ACE) inhibitors	developmental	—	October 1, 1992
Anisindione	developmental	117373	October 1, 1992
Arsenic (inorganic oxides)	developmental	—	May 1, 1997
Aspirin (NOTE: It is especially important not to use aspirin during the last three months of pregnancy, unless specifically directed to do so by a physician because it may cause problems in the unborn child or complications during delivery.)	developmental, female	50782	July 1, 1990
Atenolol	developmental	29122687	August 26, 1997
Auranofin	developmental	34031328	January 29, 1999
Azathioprine	developmental	446866	September 1, 1996
Barbiturates	developmental	—	October 1, 1992
Beclomethasone dipropionate	developmental	5534098	May 15, 1998
Benomyl	developmental, male	17804352	July 1, 1991
Benzene	developmental, male	71432	December 26, 1997
Benzphetamine hydrochloride	developmental	5411223	April 1, 1990
Benzodiazepines	developmental	—	October 1, 1992
Bischloroethyl nitrosourea (BCNU) (Carmustine)	developmental	154938	July 1, 1990
Bromacil lithium salt	developmental	53404196	May 18, 1999
Bromoxynil	developmental	1689845	October 1, 1990
Bromoxynil octanoate	developmental	1689992	May 18, 1999
Butabarbital sodium	developmental	143817	October 1, 1992
1,4-Butanediol dimethane-sulfonate (Busulfan)	developmental	55981	January 1, 1989
Cadmium	developmental, male	—	May 1, 1997
Carbamazepine	developmental	298464	January 29, 1999
Carbon disulfide	developmental, female, male	75150	July 1, 1989
Carbon monoxide	developmental	630080	July 1, 1989
Carboplatin	developmental	41575944	July 1, 1990

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<i>Chemical</i>	<i>Type of Reproductive Toxicity</i>	<i>CAS No.</i>	<i>Date Listed</i>	<i>Chemical</i>	<i>Type of Reproductive Toxicity</i>	<i>CAS No.</i>	<i>Date Listed</i>
Chenodiol	developmental	474259	April 1, 1990	Disodium cyanodithioimidocarbonate	developmental	138932	March 30, 1999
Chinomethionat (Oxythioquinox)	developmental	2439012	November 6, 1998	Doxorubicin hydrochloride	developmental, male	23214928	January 29, 1999
Chlorambucil	developmental	305033	January 1, 1989	Doxycycline (internal use)	developmental	564250	July 1, 1990
Chlorcyclizine hydrochloride	developmental	1620219	July 1, 1987	Doxycycline calcium (internal use)	developmental	94088854	January 1, 1992
Chlordecone (Kepone)	developmental	143500	January 1, 1989	Doxycycline hyclate (internal use)	developmental	24390145	October 1, 1991
Chlordiazepoxide	developmental	58253	January 1, 1992	Doxycycline monohydrate (internal use)	developmental	17086281	October 1, 1991
Chlordiazepoxide hydrochloride	developmental	438415	January 1, 1992	Endrin	developmental	72208	May 15, 1998
1-(2-Chloroethyl)-3-cyclohexyl-1-nitrosourea (CCNU) (Lomustine)	developmental	13010474	July 1, 1990	Epichlorohydrin	developmental, male	106898	September 1, 1996
Chlorsulfuron	developmental, female, male	64902723	May 14, 1999	Ergotamine tartrate	developmental	379793	April 1, 1990
Cidofovir	developmental, female, male	113852372	January 29, 1999	Estropipate	developmental	7280377	August 26, 1997
Cladribine	developmental	4291638	September 1, 1996	Ethionamide	developmental	536334	August 26, 1997
Clarithromycin	developmental	81103119	May 1, 1997	Ethyl alcohol in alcoholic beverages	developmental	—	October 1, 1987
Clotetasol propionate	developmental, female	25122467	May 15, 1998	Ethyl dipropylthiocarbamate	developmental	759944	April 27, 1999
Clomiphene citrate	developmental	50419	April 1, 1990	Ethylene dibromide	developmental, male	106934	May 15, 1998
Clorazepate dipotassium	developmental	57109907	October 1, 1992	Ethylene glycol monoethyl ether	developmental, male	110805	January 1, 1989
Cocaine	developmental, female	50362	July 1, 1989	Ethylene glycol monomethyl ether	developmental, male	109864	January 1, 1989
Codeine phosphate	developmental	52288	May 15, 1998	Ethylene glycol monoethyl ether acetate	developmental, male	111159	January 1, 1993
Colchicine	developmental, male	64868	October 1, 1992	Ethylene glycol monomethyl ether acetate	developmental, male	110496	January 1, 1993
Conjugated estrogens	developmental	—	April 1, 1990	Ethylene glycol monomethyl ether acetate	developmental, male	—	—
Cyanazine	developmental	21725462	April 1, 1990	Ethylene oxide	female	75218	February 27, 1987
Cycloate	developmental	1134232	March 19, 1999	Ethylene thiourea	developmental	96457	January 1, 1993
Cyclohexanol	male	<del>108930</del>	<del>November 6, 1998</del>	Etodolac	developmental, female	41340254	August 20, 1999
<del>Delisted January 25, 2002</del>				Etoposide	developmental	33419420	July 1, 1990
Cycloheximide	developmental	66819	January 1, 1989	Etretinate	developmental	54350480	July 1, 1987
Cyclophosphamide (anhydrous)	developmental, female, male	50180	January 1, 1989	Fenoxaprop ethyl	developmental	66441234	March 26, 1999
Cyclophosphamide (hydrated)	developmental, female, male	6055192	January 1, 1989	Filgrastim	developmental	121181531	February 27, 2001
Cyhexatin	developmental	13121705	January 1, 1989	Fluazifop butyl	developmental	69806504	November 6, 1998
Cytarabine	developmental	147944	January 1, 1989	Flunisolide	developmental, female	3385033	May 15, 1998
Dacarbazine	developmental	4342034	January 29, 1999	Fluorouracil	developmental	51218	January 1, 1989
Danazol	developmental	17230885	April 1, 1990	Fluoxymesterone	developmental	76437	April 1, 1990
Daunorubicin hydrochloride	developmental	23541506	July 1, 1990	Flurazepam hydrochloride	developmental	1172185	October 1, 1992
2,4-D butyric acid	developmental, male	94826	June 18, 1999	Flurbiprofen	developmental, female	5104494	August 20, 1999
o,p' -DDT	developmental, female, male	789026	May 15, 1998	Flutamide	developmental	13311847	July 1, 1990
p,p' -DDT	developmental, female, male	50293	May 15, 1998	Fluticasone propionate	developmental	80474142	May 15, 1998
<del>2,4-DP (dichloroprop)</del>	<del>developmental</del>	<del>120365</del>	<del>April 27, 1999</del>	Fluvalinate	developmental	69409945	November 6, 1998
<del>Delisted January 25, 2002</del>				Ganciclovir sodium	developmental, male	82410320	August 26, 1997
Demeclocycline hydrochloride (internal use)	developmental	64733	January 1, 1992	Gemfibrozil	female, male	25812300	August 20, 1999
Diazepam	developmental	439145	January 1, 1992	Goserelin acetate	developmental, female, male	65807025	August 26, 1997
Diazoxide	developmental	364987	February 27, 2001	Halazepam	developmental	23092173	July 1, 1990
1,2-Dibromo-3-chloropropane (DBCP)	male	96128	February 27, 1987	Halobetasol propionate	developmental	66852548	August 20, 1999
Dichlorophene	developmental	97234	April 27, 1999	Haloperidol	developmental, female	52868	January 29, 1999
Dichlorophenamide	developmental	120978	February 27, 2001	Halothane	developmental	151677	September 1, 1996
Diclofop methyl	developmental	51338273	March 5, 1999	Heptachlor	developmental	76448	August 20, 1999
Dicumarol	developmental	66762	October 1, 1992	Hexachlorobenzene	developmental	118741	January 1, 1989
Diethylstilbestrol (DES)	developmental	56531	July 1, 1987	Hexamethylphosphoramide	male	680319	October 1, 1994
Diffunisal	developmental, female	22494424	January 29, 1999	Histrelin acetate	developmental	—	May 15, 1998
Dihydroergotamine mesylate	developmental	6190392	May 1, 1997	Hydramethylnon	developmental, male	67485294	March 5, 1999
Diltiazem hydrochloride	developmental	33286225	February 27, 2001	Hydroxyurea	developmental	127071	May 1, 1997
m-Dinitrobenzene	male	99650	July 1, 1990	Idarubicin hydrochloride	developmental, male	57852570	August 20, 1999
o-Dinitrobenzene	male	528290	July 1, 1990	Ifosfamide	developmental	3778732	July 1, 1990
p-Dinitrobenzene	male	100254	July 1, 1990	Iodine-131	developmental	10043660	January 1, 1989
2,4-Dinitrotoluene	male	121142	August 20, 1999	Isotretinoin	developmental	4759482	July 1, 1987
2,6-Dinitrotoluene	male	606202	August 20, 1999	Lead	developmental, female, male	—	February 27, 1987
Dinitrotoluene (technical grade)	female, male	—	August 20, 1999	Leuprolide acetate	developmental, female, male	74381536	August 26, 1997
Dinocap	developmental	39300453	April 1, 1990				
Dinoseb	developmental, male	88857	January 1, 1989				
Diphenylhydantoin (Phenytoin)	developmental	57410	July 1, 1987				



# CALIFORNIA REGULATORY NOTICE REGISTER 2002, VOLUME NO. 11-Z

<i>Chemical</i>	<i>Type of Reproductive Toxicity</i>	<i>CAS No.</i>	<i>Date Listed</i>	<i>Chemical</i>	<i>Type of Reproductive Toxicity</i>	<i>CAS No.</i>	<i>Date Listed</i>
Levodopa	developmental	59927	January 29, 1999	Paramethadione	developmental	115673	July 1, 1990
Levonorgestrel implants	female	797637	May 15, 1998	Penicillamine	developmental	52675	January 1, 1991
Linuron	developmental	330552	March 19, 1999	Pentobarbital sodium	developmental	57330	July 1, 1990
Lithium carbonate	developmental	554132	January 1, 1991	Pentostatin	developmental	53910251	September 1, 1996
Lithium citrate	developmental	919164	January 1, 1991	Phenacemide	developmental	63989	July 1, 1990
Lorazepam	developmental	846491	July 1, 1990	Phenprocoumon	developmental	435972	October 1, 1992
Lovastatin	developmental	75330755	October 1, 1992	Pimozide	developmental, female	2062784	August 20, 1999
Mebendazole	developmental	31431397	August 20, 1999	Pipobroman	developmental	54911	July 1, 1990
Medroxyprogesterone acetate	developmental	71589	April 1, 1990	Pllicamycin	developmental	18378897	April 1, 1990
Megestrol acetate	developmental	595335	January 1, 1991	Polybrominated biphenyls	developmental	—	October 1, 1994
Melphalan	developmental	148823	July 1, 1990	Polychlorinated biphenyls	developmental	—	January 1, 1991
Menotropins	developmental	9002680	April 1, 1990	Potassium dimethyldithio- carbamate	developmental	128030	March 30 1999
Meprobamate	developmental	57534	January 1, 1992	Pravastatin sodium	developmental	81131706	March 3, 2000
Mercaptopurine	developmental	6112761	July 1, 1990	Prednisolone sodium phosphate	developmental	125020	August 20, 1999
Mercury and mercury compounds	developmental	—	July 1, 1990	Procarbazine hydrochloride	developmental	366701	July 1, 1990
Methacycline hydrochloride	developmental	3963959	January 1, 1991	Propargite	developmental	2312358	June 15, 1999
Metham sodium	developmental	137428	May 15, 1998	Propylthiouracil	developmental	51525	July 1, 1990
Methazole	developmental	20354261	December 1, 1999	Pyrimethamine	developmental	58140	January 29, 1999
Methimazole	developmental	60560	July 1, 1990				
Methotrexate	developmental	59052	January 1, 1989	Quazepam	developmental	36735225	August 26, 1997
Methotrexate sodium	developmental	15475566	April 1, 1990	Quizalofop-ethyl	male	76578148	December 24, 1999
Methyl bromide as a structural fumigant	developmental	74839	January 1, 1993				
Methyl chloride	developmental	74873	March 10, 2000	Resmethrin	developmental	10453868	November 6, 1998
Methyl mercury	developmental	—	July 1, 1987	Retinol/retinyl esters, when in daily dosages in excess of 10,000 IU, or 3,000 retinol equivalents. (NOTE: Retinol/retinyl esters are required and essential for maintenance of normal reproductive function. The recom- mended daily level during pregnancy is 8,000 IU.)	developmental	—	July 1, 1989
N-Methylpyrrolidone	developmental	872504	June 15, 2001				
Methyltestosterone	developmental	58184	April 1, 1990	Ribavirin	developmental	36791045	April 1, 1990
Metiram	developmental	9006422	March 30, 1999		male	36791045	February 27, 2001
Midazolam hydrochloride	developmental	59467968	July 1, 1990	Rifampin	developmental, female	13292461	February 27, 2001
Minocycline hydrochloride (internal use)	developmental	13614987	January 1, 1992				
Misoprostol	developmental	59122462	April 1, 1990	Secobarbital sodium	developmental	309433	October 1, 1992
Mitoxantrone hydrochloride	developmental	70476823	July 1, 1990	Sermorelin acetate	developmental	—	August 20, 1999
Myclobutanil	developmental, male	88671890	April 16, 1999	Sodium dimethyldithiocarbamate	developmental	128041	March 30 1999
				Sodium fluoroacetate	male	62748	November 6, 1998
Nabam	developmental	142596	March 30, 1999	Streptomycin sulfate	developmental	3810740	January 1, 1991
Nafarelin acetate	developmental	86220420	April 1, 1990	Streptozocin (streptozotocin)	developmental, female, male	18883664	August 20, 1999
Neomycin sulfate (internal use)	developmental	1405103	October 1, 1992	Sulfasalazine	male	599791	January 29, 1999
Netilmicin sulfate	developmental	56391572	July 1, 1990	Sulindac	developmental, female	38194502	January 29, 1999
Nickel carbonyl	developmental	13463393	September 1, 1996				
Nicotine	developmental	54115	April 1, 1990	Tamoxifen citrate	developmental	54965241	July 1, 1990
Nifedipine	developmental, female, male	21829254	January 29, 1999	Temazepam	developmental	846504	April 1, 1990
Nimodipine	developmental	66085594	April 24, 2001	Teniposide	developmental	29767202	September 1, 1996
Nitrapyrin	developmental	1929824	March 30, 1999	Terbacil	developmental	5902512	May 18, 1999
Nitrofurantoin	male	67209	April 1, 1991	Testosterone cypionate	developmental	58208	October 1, 1991
Nitrogen mustard (Methchlorothamine)	developmental	51752	January 1, 1989	Testosterone enanthate	developmental	315377	April 1, 1990
Nitrogen mustard hydrochloride (Methchlorothamine hydrochloride)	developmental	55867	July 1, 1990	2,3,7,8-Tetrachlorodibenzo- paradioxin (TCDD)	developmental	1746016	April 1, 1991
Norethisterone (Norethindrone)	developmental	68224	April 1, 1990	Tetracycline (internal use)	developmental	60548	October 1, 1991
Norethisterone acetate (Norethindrone acetate)	developmental	51989	October 1, 1991	Tetracyclines (internal use)	developmental	—	October 1, 1992
Norethisterone (Norethindrone)/Ethinyl estradiol	developmental	68224/57636	April 1, 1990	Tetracycline hydrochloride (internal use)	developmental	64755	January 1, 1991
Norethisterone (Norethindrone)/Mestranol	developmental	68224/72333	April 1, 1990				
Norgestrel	developmental	6533002	April 1, 1990	Thalidomide	developmental	50351	July 1, 1987
				Thioguanine	developmental	154427	July 1, 1990
Oxadiazon	developmental	19666309	May 15, 1998	Thiophanate methyl	female, male	23564058	May 18, 1999
Oxazepam	developmental	604751	October 1, 1992	Tobacco smoke (primary)	developmental, female, male	—	April 1, 1988
Oxydemeton methyl	female, male	301122	November 6, 1998				
Oxymetholone	developmental	434071	May 1, 1997	Tobramycin sulfate	developmental	49842071	July 1, 1990
Oxytetracycline (internal use)	developmental	79572	January 1, 1991	Toluene	developmental	108883	January 1, 1991
Oxytetracycline hydrochloride (internal use)	developmental	2058460	October 1, 1991	Triadimefon	developmental, female, male	43121433	March 30, 1999
				Triazolam	developmental	28911015	April 1, 1990
				Tributyltin methacrylate	developmental	2155706	December 1, 1999
				Trientine hydrochloride	developmental	38260014	February 27, 2001
				Triforine	developmental	26644462	June 18, 1999
Paclitaxel	developmental, female, male	33069624	August 26, 1997			37273840	

<i>Chemical</i>	<i>Type of Reproductive Toxicity</i>	<i>CAS No.</i>	<i>Date Listed</i>
Trilostane	developmental	13647353	April 1, 1990
Trimethadione	developmental	127480	January 1, 1991
Trimetrexate glucuronate	developmental	82952645	August 26, 1997
Triphenyltin hydroxide	developmental	76879	March 18, 2002
Uracil mustard	developmental, female, male	66751	January 1, 1992
Urethane	developmental	51796	October 1, 1994
Urofollitropin	developmental	26995915	April 1, 1990
Valproate (Valproic acid)	developmental	99661	July 1, 1987
Vinblastine sulfate	developmental	143679	July 1, 1990
Vinclozolin	developmental	50471448	May 15, 1998
Vincristine sulfate	developmental	2068782	July 1, 1990
Warfarin	developmental	81812	July 1, 1987
Zileuton	developmental, female	111406872	December 22, 2000

Date: March 15, 2002

## DECISION NOT TO PROCEED

### PHYSICAL THERAPY BOARD OF CALIFORNIA

#### DECISION TO DISCONTINUE RULEMAKING PROCESS

The Physical Board of California has discontinued rulemaking under the Notice published on September 7, 2001, OAL File #Z-01-0828-21 related to Electromyography Reports.

DATED: March 5, 2002

### PHYSICAL THERAPY BOARD OF CALIFORNIA

#### DECISION TO DISCONTINUE RULEMAKING PROCESS

The Physical Board of California has discontinued rulemaking under the Notice published on September 7, 2001, OAL File #Z-01-0828-19 related to Physical Therapy Practice Ownership.

DATED: March 5, 2002

## SUMMARY OF REGULATORY ACTIONS

### REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained

by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

#### BOARD OF EDUCATION

##### Criteria for Review and Approval of Charter School Petitions

This rulemaking action implements the provision in Education Code Section 47605(j)(2) that requires the State Board of Education to develop criteria to be used for the review and approval of charter school petitions presented to the State Board of Education.

##### Title 5

##### California Code of Regulations

ADOPT: 11967.5, 11967.5.1

Filed 03/01/02

Effective 03/31/02

Agency Contact: Pat McGinnis (916) 657-4669

#### BOARD OF OCCUPATIONAL THERAPY

##### Definitions, Applications, Licenses, Fees

This action implements Senate Bill 1046 (ch. 697, Stats. 2000) in regulating occupational therapists and occupational therapy assistants. It includes definitions, forms, applications, licenses and certificates, and fees. Proposed section 4113 has been withdrawn from review and reserved for future timelines.

##### Title 16

##### California Code of Regulations

ADOPT: 4100, 4101, 4102, 4110, 4111, 4112, 4113, 4114, 4120, 4121, 4122, 4130

Filed 02/28/02

Effective 02/28/02

Agency Contact: Jeff Hanson (916) 322-3394

#### BOARD OF PRISON TERMS

##### Conflict of Interest Code

This is a Conflict of Interest Code filing which has been approved by the Fair Political Practices Commission and is being submitted to OAL for filing with the Secretary of State and printing only.

##### Title 15

##### California Code of Regulations

AMEND: 2005

Filed 02/28/02

Effective 03/30/02

Agency Contact: Lori Manieri (916) 445-5277

#### CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

##### Waiver of Permit Terms and Conditions During Temporary Emergencies

This emergency regulatory action adopts the process for a waiver of permit terms and conditions during temporary emergencies. (Previous OAL file #01-1030-02E)

Title 14  
California Code of Regulations  
ADOPT: 17211, 17211.1, 17211.2, 17211.3,  
17211.4, 17211.5, 17211.6, 17211.7, 17211.8,  
17211.9  
Filed 03/04/02  
Effective 03/04/02  
Agency Contact:  
Michael Bledsoe (916) 341-6058

**DEPARTMENT OF CHILD SUPPORT SERVICES**  
**Administrative Reports**

This emergency filing is a readoption of an emergency regulatory action filed on September 6, 2001 which specified data submission requirements for local child support agencies. The requirements are the same as those imposed by the regulation being repealed in this action, and those imposed by other state and federal laws. The reporting involves a variety of collection and distribution data and service activity statistics for the child support program and data related to performance measures. This filing is deemed an emergency pursuant to section 17306(e)(2) of the Family Code and remains in effect for 180 days.

Title 22  
California Code of Regulations  
ADOPT: 111900, 111910, 111920, 121100, 121120,  
121140  
Filed 03/05/02  
Effective 03/05/02  
Agency Contact: Lucila Ledesma (916) 464-5087

**DEPARTMENT OF CONSERVATION**  
**Review of Applications**

This action updates the procedure for Department review of an application for certification of a recycling center or processor, to accommodate a change in the relevant statutes that requires the department to consider whether a recycling center or processor operating in the same location has operated in compliance with applicable laws during the prior 5 years.

Title 14  
California Code of Regulations  
AMEND: 2030  
Filed 03/04/02  
Effective 03/04/02  
Agency Contact: Marty Nold (916) 327-2761

**DEPARTMENT OF DEVELOPMENTAL SERVICES**  
**Direct Care Staff Training**

This nonsubstantive filing extends the timelines for direct care staff competency-based training and testing, to be consistent with statutory amendments in AB950, effective 1/1/02. This replaces language in emergency regulation section 56003 (file #01-1003-02E), which expired by operation of law on 2/9/02.

Title 17  
California Code of Regulations  
AMEND: 56002, 56031, 56033, 56034, 56134.1,  
56035, 56036, 56037, 56038, 56048, 56054, 56057,  
56059, 56060  
Filed 02/28/02  
Effective 02/28/02  
Agency Contact: David J. Judd (916) 654-2257

**DEPARTMENT OF HEALTH SERVICES**  
**Disease Reporting to Assess Potential**  
**Bioterrorism Events**

Beginning with a series of Presidential Decision Directives in 1995, all 50 states are now engaged in the development of programs to detect biological attacks and effectively counter an attack. The CDC and bioterrorism experts have focused on 7 disease agents/conditions for intensive surveillance and rapid reporting. These are the agents of anthrax, botulism, brucellosis, plague, smallpox, tularemia, and viral hemorrhagic fevers. This filing is a readoption of emergency regulations which made these agents immediately reportable by health care providers, directors of medical laboratories, and local health officers. In addition, health care providers and local health officers are required to immediately report varicella (deaths only), occurrences of any unusual disease, or outbreaks of any disease.

Title 17  
California Code of Regulations  
ADOPT: 2638 AMEND: 2500, 2502, 2505, 2551,  
2552, 2553, 2596, 2614, 2626  
Filed 03/01/02  
Effective 03/01/02  
Agency Contact:

Barbara S. Gallaway (916) 657-3197

**DEPARTMENT OF HEALTH SERVICES**  
**National Environmental laboratory Accreditation**  
**program Fees**

This emergency regulatory action adopts the fees for accreditation in the National Environmental Laboratory Accreditation Program (NELAP).

Title 22  
California Code of Regulations  
ADOPT: 64860  
Filed 03/06/02  
Effective 03/14/02  
Agency Contact:  
Charles E. Smith (916) 657-0730

**DEPARTMENT OF INSURANCE**  
**Low Cost Automobile Insurance Program**

The filing makes nonsubstantive changes to the "California Automobile Insurance Low Cost Program Plan of Operations" which is incorporated by reference in section 2498.6. (Department of Insurance File Number RH01016791.)

Title 10  
California Code of Regulations  
AMEND: 2498.6  
Filed 02/27/02  
Effective 02/27/02  
Agency Contact:  
Mary Ann Shulman (415) 538-4133

**DEPARTMENT OF JUSTICE**  
**Adoption of Surety Bond Form**

This file concerns a new bond form entitled "Business Partner Automation Surety Bond" and was submitted by the Department of Motor Vehicles to and approved by the Attorney General. The form is being submitted to OAL for filing with the Secretary of State and printing only.

Title 11  
California Code of Regulations  
ADOPT: Article 20, Section 51.19  
Filed 03/06/02  
Effective 03/06/02  
Agency Contact: Bill Lockyer

**DEPARTMENT OF PARKS AND RECREATION**  
**Relocation Assistance**

Government Code section 7267.8 (a) requires that all public entities adopt regulations to implement payments and to administer relocation assistance in accordance with regulations adopted by the Department of Housing and Community Development. However, if the project is federally funded, Government Code section 7267.8 (b) requires that the public entity make relocation assistance payments and provide relocation advisory assistance as required under federal law. The Department of Housing and Community Development (DHCD) has adopted relocation assistance and real property acquisition guidelines in subchapter 1 of chapter 6 of title 25 of the California Code of Regulations. This emergency regulatory action of the Department of Parks and Recreation (DPAR) incorporates by reference those relocation assistance guidelines of DHCD and further provides that, with respect to a federally funded project, relocation assistance payments and relocation advise assistance shall be provided as required under federal law.

Title 14  
California Code of Regulations  
ADOPT: 4971  
Filed 02/28/02  
Effective 02/28/02  
Agency Contact:  
David Wrightsman (916) 445-9101

**DEPARTMENT OF SOCIAL SERVICES**  
**Noncitizen Eligibility Certification Provision**  
**Amendments**

This emergency regulatory action amends provisions dealing with Food Stamps and noncitizens.

Title MPP  
California Code of Regulations  
AMEND: 63-102, 63-103, 63-300, 63-301, 63-503  
Filed 02/28/02  
Effective 03/01/02  
Agency Contact:  
Anthony J. Velasquez (916) 657-2586

**DEPARTMENT OF SOCIAL SERVICES**  
**CalWORKS 60- Time Limit Procedures**

This emergency action implements federal and state law concerning CalWORKs 60-month time limit procedures. It establishes a process by which recipients can claim exemptions to the time limit, and requires notification of remaining time.

Title MPP  
California Code of Regulations  
ADOPT: 40-107.141, 40-107.142, 40-107.143, 40-107.15, 40-107.151, 40-107.152, 42-302.114, 42-302.114(a)-(c), 42-302.21(h)(1), 42-302.3, 44-133.8, 82-833 AMEND: 40-107.14, 40-107.16, 40-107.17, 40-107.18, 40-107.19, 42-301.2, 44-133.51, 82-832  
Filed 02/28/02  
Effective 02/28/02  
Agency Contact:  
Anthony J. Velasquez (916) 657-2586

**DEPARTMENT OF SOCIAL SERVICES**  
**California Food Assistance Program**

This emergency rulemaking repeals the September 30, 2001 sunset date for eligibility to the California Food Assistance Program (CFAP) for certain legal noncitizens that entered the United States on or after August 22, 1996.

Title MPP  
California Code of Regulations  
AMEND: 63-403  
Filed 03/06/02  
Effective 03/06/02  
Agency Contact:  
Anthony J. Velasquez (916) 657-2586

**DEPARTMENT OF TOXIC SUBSTANCES**  
**CONTROL**  
**Clean Loan Program**

This is the third readoption of emergency regulations containing standards and procedures for a new loan program designed to facilitate the assessment and cleanup of contaminated urban sites that are underutilized by lending the landowners money for these purposes. Note that although the emergency regula-



tions can remain in effect until 8/28/02, the end of the one year period for completing the adoption of these regulations, measured from publication of the notice of rulemaking on 6/22/01, will be 6/24/02.

**Title 22**

California Code of Regulations

ADOPT: 68200, 68201, 68202, 68203, 68204, 68205, 68206, 68207, 68208, 68209, 68210, 68211, 68212, 68213

Filed 03/01/02

Effective 03/01/02

Agency Contact: Joan Ferber (916) 322-6409

**ENVIRONMENTAL PROTECTION AGENCY**

**Agency Responsibilities Regarding State Surcharge**

This Certificate of Compliance conforms the Agency's regulation to recent statutory changes concerning the collection of the surcharge for the Certified Unified Program Agencies (CUPAs).

**Title 27**

California Code of Regulations

AMEND: 15110, 15240

Filed 03/05/02

Effective 03/05/02

Agency Contact: Joan Ferber (916) 322-6409

**FRANCHISE TAX BOARD**

**Election Fee**

This action would repeal the provision implementing Revenue and Taxation Code section 25115 which described how to calculate the fee a taxpayer electing to compute its income for income years beginning before January 1, 1994, because Revenue and Taxation Code section 25115 has been repealed.

**Title 18**

California Code of Regulations REPEAL: 25115

Filed 02/28/02

Effective 03/30/02

Agency Contact:

Colleen Berwick (916) 845-3306

**OCCUPATIONAL SAFETY AND HEALTH**

**STANDARDS BOARD**

**Refrigerator Vehicles**

This regulatory action adopts an exception to the requirement that a refrigerator vehicle must have an axe, pinch bar or other tool to enable a person to escape from inside the refrigerator compartment.

**Title 8**

California Code of Regulations

AMEND: 3251

Filed 03/05/02

Effective 04/04/02

Agency Contact: Marley Hart (916) 274-5721

**OFFICE OF ENVIRONMENTAL HEALTH  
HAZARD ASSESSMENT**

Chemicals Required by State or Federal Law to Have Been Tested for Potential to Cause Cancer or Reproductive Toxicity

This action amends the list of chemicals required by State or Federal law to have been tested for potential to cause cancer or reproductive toxicity, but which have not been adequately tested as required. The action is exempt from OAL review pursuant to Health and Safety Code section 25249.8 and is being submitted for filing with the Secretary of State and printing only.

**Title 22**

California Code of Regulations

AMEND: 14000

Filed 03/01/02

Effective 03/01/02

Agency Contact: Cynthia Oshita (916) 322-2068

**OFFICE OF ENVIRONMENTAL HEALTH  
HAZARD ASSESSMENT**

Chemicals Known to the State to Cause Cancer or Reproductive Toxicity

The Office of Environmental Health Hazard Assessment is amending the captioned section pertaining to "Chemicals Known to the State to Cause Cancer or Reproductive Toxicity" pursuant to Health and Safety Code Section 25249.8. Section 25249.8 of the Health and Safety Code states in part "(e) In carrying out the duties of the Governor under this section, the Governor and his designates shall not be considered to be adopting or amending a regulation within the meaning of the Administrative Procedure Act as defined in Government Code Section 11370." Therefore, the captioned section is not subject to review by the Office of Administrative Law.

**Title 22**

California Code of Regulations

AMEND: 12000

Filed 02/28/02

Effective 12/21/01

Agency Contact: Cynthia Oshita (916) 322-2068

**CCR CHANGES FILED WITH THE  
SECRETARY OF STATE  
WITHIN OCTOBER 31, 2001 TO  
MARCH 06, 2002**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the

Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 1**

02/22/02 AMEND: 121, Appendix A  
01/08/02 AMEND: 1402, 1414, 1437

**Title 2**

02/19/02 ADOPT: 18543 REPEAL: 18543  
02/19/02 ADOPT: 18450.11  
02/19/02 ADOPT: 18530.8  
02/14/02 ADOPT: 18404.1 REPEAL: 18404.2  
01/31/02 ADOPT: 18421.4  
01/30/02 AMEND: 55300  
01/24/02 ADOPT: 18450.3, 18450.4, 18450.5  
AMEND: 18402  
01/24/02 ADOPT: 58500  
01/22/02 AMEND: 18706  
01/16/02 AMEND: 18232, 18702.1, 18705.5,  
18708  
01/16/02 ADOPT: 18539, 18550  
12/27/01 AMEND: 18428  
12/26/01 AMEND: 2554(b)(4), 2555(a)(1)  
12/21/01 AMEND: 1859.2, 1859.81  
12/20/01 AMEND: 45100  
12/20/01 AMEND: 2300(b)  
12/18/01 AMEND: 2541(c), 2541(d)  
12/12/01 ADOPT: 1896.300, 1896.310, 1896.320,  
1896.330, 1896.340, 1896.350, 1896.360,  
1896.370  
11/27/01 ADOPT: 599.911, 599.912, 599.913  
11/26/01 ADOPT: 18540  
11/16/01 ADOPT: 18539.2  
11/06/01 ADOPT: 18536 REPEAL: 18536  
10/31/01 AMEND: 599.911, 599.912, 599.913  
10/31/01 AMEND: 599.936

**Title 3**

02/22/02 AMEND: 2 and Appendix  
02/20/02 AMEND: 3591.16(a)  
02/07/02 AMEND: 3591.12 (a)  
02/04/02 AMEND: 3591.13 (a)  
02/04/02 AMEND: 1392.1, 1392.2, 1392.4,  
1392.9.1  
01/30/02 ADOPT: 2681, 2799 AMEND: 2675,  
2676, 2694, 2695, 2697, 2701, 2734,  
2773.1, 2773.5, 2774, 2774.5, 2775,  
2778, 2782, 2783, 2783.5, 2788, 2789,  
2790, 2790.5, 2793, 2794, 2796, 2798,  
2801, 2802  
01/14/02 AMEND: 3406 (b)  
01/14/02 AMEND: 3423 (b)  
01/08/02 AMEND: 576.1  
01/04/02 AMEND: 3591.16 (a)  
12/27/01 AMEND: 2  
12/26/01 ADOPT: 950, 951, 952, 953, 954, 955  
AMEND: 900.1, 901, 927, 930, 931

12/26/01 AMEND: 6650, 6654, 6656  
12/20/01 ADOPT: 7010  
12/14/01 AMEND: 3700 (a),(b),(c)  
12/12/01 AMEND: 3591.2(a)  
12/05/01 ADOPT: 1301, 1301.1, 1301.2, 1301.3,  
1301.4, 1301.5, 1301.6, 1301.7, 1301.8,  
1301.9  
12/04/01 AMEND: 3591.12(a)  
11/28/01 AMEND: 3430(b)  
11/28/01 AMEND: 1359, 1392.4, 1436.30 RE-  
PEAL: 1359.1, 1360, 1361, 1362, 1363  
11/27/01 AMEND: 6252, 6256  
11/26/01 AMEND: 1380.19

**Title 4**

02/13/02 AMEND: 1691  
02/06/02 AMEND: 1858  
01/31/02 AMEND: 1467  
01/28/02 AMEND: 1844  
01/18/02 ADOPT: 2081  
01/11/02 ADOPT: 4160, 4161, 4162, 4263, 4164,  
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4171 REPEAL: 4160, 4161, 4162, 4164,  
4167, 4168, 4169, 4170, 4171, 4172,  
4173, 4174, 4175  
01/10/02 ADOPT: 2078  
01/07/02 ADOPT: 2073  
01/07/02 ADOPT: 2072  
01/07/02 ADOPT: 2082  
01/07/02 ADOPT: 2071  
01/07/02 ADOPT: 2076  
01/04/02 ADOPT: 2083  
01/03/02 ADOPT: 2080  
01/03/02 ADOPT: 2079  
01/03/02 ADOPT: 2077  
01/03/02 ADOPT: 2075  
01/03/02 ADOPT: 2070  
01/03/02 ADOPT: 2074  
12/12/01 REPEAL: 143.4  
12/11/01 AMEND: 1979  
12/10/01 AMEND: 1969  
11/29/01 ADOPT: 12130  
11/20/01 AMEND: 376, 377  
11/19/01 ADOPT: 10300, 10302, 10305, 10310,  
10315, 10317, 10320, 10322, 10325,  
10326, 10327, 10328, 10330, 10335,  
10337 AMEND: 10317(c)  
11/19/01 ADOPT: 12100, 12102, 12104, 12106,  
12108, 12110, 12120  
11/01/01 AMEND: 401, 403

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03/01/02 ADOPT: 11967.5, 11967.5.1  
02/19/02 ADOPT: 55753.5, 55753.7 AMEND:  
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01/24/02 AMEND: 11530, 11531  
01/24/02 AMEND: 43880, 43881, 43882, 43883,  
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01/08/02 AMEND: 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039  
 01/08/02 REPEAL: 11820, 11822, 11823, 11827, 11828, 11829, 11831, 11832, 11833, 11834  
 01/07/02 AMEND: 42713  
 01/07/02 AMEND: 73000, 73010, 73100, 73110, 73120, 73130, 73140, 73150, 73160, 73165, 73170, 73180, 73190, 73200, 73210, 73230, 73240, 73260, 73270, 73280, 73290, 73300, 73310, 73320, 73330, 73340, 73350, 73360, 73380, 73390, 73400, 73410, 73420, 73430, 73440, et seq.  
 12/27/01 ADOPT: 31000, 31001, 31003, 31004, 31005, 31006, 31007  
 12/26/01 AMEND: 80487  
 12/21/01 ADOPT: 1215, 1216, 1217, 1217.5, 1218, 1219, 1219.5  
 12/21/01 ADOPT: 31000, 31001, 31002, 31003, 31004, 31005, 31006, 31007  
 12/18/01 AMEND: 30950, 30951, 30951.1, 30952, 30953, 30954, 30955, 30956, 30957, 30958, 30959  
 12/14/01 AMEND: 41802 REPEAL: 41802.1, 41913  
 12/12/01 AMEND: 80225  
 12/05/01 ADOPT: 20430, 20432, 20434, 20436, 20438, 20440, 20442, 20444  
 12/03/01 AMEND: 55316.5, 55317, 58003.1, 58009  
 11/28/01 AMEND: 43810  
 11/27/01 AMEND: 42933  
 11/26/01 AMEND: 22000  
 11/19/01 AMEND: 80026, 80027  
 11/15/01 AMEND: 1032 (i)  
 11/06/01 AMEND: 18302  
 11/05/01 REPEAL: 18140, 18141, 18142, 18143, 18144, 18145, 18146, 18147, 18148, 18149, 18150, 18151, 18152, 18153, 18154, 18155, 18156, 18157, 18158, 18159, 18160, 18161, 18162, 18163, 18164, 18165, 18166, 18167, 18168, 18169, 18170, 18171, 18172, 18173, 18174

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12/11/01 ADOPT: 236  
 11/27/01 ADOPT: 212.5

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03/05/02 AMEND: 3251  
 02/22/02 ADOPT: 11010, 11020, 11030, 11040, 11050, 11060, 11070, 11080 REPEAL: 11010, 11020, 11020, 11040, 11050, 11060, 11070, 11080  
 02/14/02 AMEND: 17  
 02/08/02 AMEND: 3641, 3648

01/30/02 ADOPT: New Appendix D AMEND: 450, 453, 471, 475, 477, 494 REPEAL: 486, 487  
 01/17/02 ADOPT: 206, 207 AMEND: 201, 205, 208, 212, 212.01, 212.2, 212.3, 212.4, 228, 229, 230, 231, 230.1, 230.2, 234.2  
 01/17/02 AMEND: 5155  
 01/15/02 ADOPT: 17201, 17202, 17203, 17204, 17205, 17206, 17207, 17208, 17209, 17210, 17211, 17212, 17220, 17221, 17222, 17223, 17224, 17225, 17226, 17227, 17228, 17229, 17230, 17231, 17232, 17234, 17235, 17236, 17237, 17240, 17241, 17242, 17243, 17244, 17245, et seq.  
 01/15/02 ADOPT: 14300.1, 14300.2, 14300.03, 14300.04, 14300.05, 14300.06, 14300.07, 14300.08, 14300.09, 14300.10, 14300.11, 14300.12, 14300.13, 14300.14, 14300.15, 14300.16, 14300.17, 14300.18, 14300.19, 14300.20, 14300.21, 14300.22, 14300.23, 14300.24, 14300.25, et seq.  
 01/04/02 ADOPT: 11170 AMEND: 11160  
 01/03/02 AMEND: 3472, 4884, 4885, 4886, 4907, 4924, 4965, 4966, 4968  
 12/31/01 AMEND: 9792.1  
 12/26/01 AMEND: 1532.1  
 12/24/01 AMEND: 31100  
 12/04/01 ADOPT: 32015, 32016, 32325, 32603, 32604, 6000, 60010, 60020, 60030, 60035, 60040, 60050, 60070, 61000, 61005, 61010, 61020, 61030, 61040, 61050, 61055, 61060, 61065, 61070, 61072, 61075, 61080, 61090, 61100, 61105, 61110, 61115, 61120, 61125, 61130, et seq.  
 11/29/01 AMEND: 5031(c)(3)  
 11/19/01 AMEND: 341.15  
 11/08/01 AMEND: 3340(c) and (d)  
 11/02/01 AMEND: 15212

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01/17/02 ADOPT: 9533 AMEND: 9500, 9505, 9510, 9515, 9517, 9520, 9525, 9530, 9532, 9535, 9540, 9545  
 12/12/01 ADOPT: 9500, 9505, 9510, 9515, 9517, 9520, 9525, 9530, 9532, 9533, 9535, 9540, 9545  
 12/10/01 AMEND: 7050, 7051, 7053, 7054, 7056, 7057

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02/27/02 AMEND: 2498.6  
 02/26/02 ADOPT: 2581.1, 2581.2, 2581.3, 2581.4  
 02/11/02 AMEND: 4019  
 02/11/02 AMEND: 5002  
 02/11/02 AMEND: 10.3154

02/07/02 AMEND: 260.102.19, 260.140.41,  
260.140.42, 260.140.45, 260.140.46  
01/31/02 ADOPT: 2130, 2130.1, 2130.2, 2130.3,  
2130.4, 2130.5, 2130.6, 2130.7, 2130.8  
01/31/02 ADOPT: 2192.1  
01/10/02 AMEND: 2318.6, 2353.1  
01/09/02 AMEND: 2248.31, 2248.32, 2248.35,  
2248.40, 2248.41, 2248.42, and 2248.47  
01/08/02 AMEND: 5460, 5461, 5462, 5463, 5464,  
5465  
12/31/01 ADOPT: 2695.30  
12/31/01 ADOPT: 1729, 1741.5, 1950.302  
AMEND: 1741.5  
12/26/01 ADOPT: 2278, 2278.1, 2278.2, 2278.3,  
2278.4, 2278.5  
12/26/01 AMEND: 2698.70, 2698.71  
10/31/01 AMEND: 4081, 4081.5

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03/06/02 ADOPT: 51.19  
02/25/02 ADOPT: 410, 411, 415, 416, 417, 418,  
419, 420, 421, 422, 423, 424, 425, 426  
02/19/02 AMEND: 20  
01/14/02 AMEND: 1005  
01/09/02 AMEND: 1081  
12/31/01 AMEND: 3000, 3001, 3003, 3007  
12/05/01 AMEND: 1005

**Title 13**

02/19/02 ADOPT: 156.00  
02/05/02 AMEND: 160.00, 170.00  
01/30/02 AMEND: 553.70  
01/18/02 AMEND: 599  
01/10/02 AMEND: 50.45 REPEAL: 50.40

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03/04/02 ADOPT: 17211, 17211.1, 17211.2,  
17211.3, 17211.4, 17211.5, 17211.6,  
17211.7, 17211.8, 17211.9  
03/04/02 AMEND: 2030  
02/28/02 ADOPT: 4971  
02/22/02 AMEND: 2135  
02/04/02 AMEND: 17979  
01/16/02 AMEND: 17943(b)(26)  
01/10/02 ADOPT: 2.10, 5.60, 28.59 AMEND:  
1.24, 2.06, 4.00, 4.15, 5.00, 5.05, 5.15,  
5.20, 5.35, 5.40, 5.75, 7.00, 7.50, 8.00,  
27.60, 27.65, 27.82, 28.27, 28.54, 28.55,  
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01/09/02 ADOPT: 14021, 14022, 14023, 14024,  
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12/31/01 ADOPT: 749.1  
12/20/01 AMEND: 2.00  
12/19/01 ADOPT: 180.4  
12/17/01 AMEND: 120

12/13/01 AMEND: 670.5  
12/11/01 ADOPT: 17367, 17368, 17369, 17370.1,  
17370.2, 18225  
11/29/01 ADOPT: 1057, 1057.1, 1057.2, 1057.3,  
1057.4, 1057.5, 1058, 1058.1, 1058.2,  
1058.3, 1058.4, 1058.5  
11/20/01 AMEND: 895.1, 898, 898.2, 914.8  
[934.8, 954.8], 916, [936, 956], 916.2  
[936.2, 956.2], 916.9 [936.9, 956.9],  
916.11 [936.11, 956.11], 916.12 [936.12,  
956.12], 923.3 [943.3, 963.3], 923.9  
[943.9, 963.9]  
11/16/01 AMEND: 1038, 1104.1  
11/08/01 AMEND: 150.16  
11/07/01 AMEND: 1037.5  
11/01/01 ADOPT: 17211, 17211.1, 17211.2,  
17211.3, 17211.4, 17211.5, 17211.6,  
17211.7, 17211.8, 17211.9  
10/31/01 AMEND: 300(a)  
10/31/01 AMEND: 163, 163.5, 164

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02/28/02 AMEND: 2005  
01/31/02 AMEND: 3041.3  
01/09/02 ADOPT: 4742, 4743, 4744, 4745, 4746,  
4747 AMEND: 4730, 4732, 4733, 4734,  
4735, 4736, 4737, 4739, 4740  
01/08/02 REPEAL: 3074  
11/29/01 ADOPT: 4746.5  
11/27/01 AMEND: 6045.2(e)(2)(G)  
11/20/01 ADOPT: 2646.1 AMEND: 2646

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02/28/02 ADOPT: 4100, 4101, 4102, 4110, 4111,  
4112, 4113, 4114, 4120, 4121, 4122, 4130  
02/26/02 AMEND: 3394.4, 3394.6  
02/20/02 AMEND: 1388, 1388.6, 1389, 1392,  
1397.63 REPEAL: 1388.5  
02/19/02 AMEND: 1387.6, 1387.7, 1387.8  
02/13/02 AMEND: 3361.1  
02/11/02 ADOPT: 2085.4  
02/04/02 AMEND: 1399.157  
02/04/02 ADOPT: 2085, 2085.1, 2085.2, 2085.3,  
2085.4, 2085.5, 2085.6, 2085.7, 2085.8,  
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2085.13 AMEND: 2070  
01/31/02 AMEND: 411  
01/31/02 ADOPT: 1399.698  
01/28/02 AMEND: 1531  
01/18/02 AMEND: 1391.7  
01/14/02 ADOPT: 1711  
01/14/02 ADOPT: 980.1 AMEND: 974  
12/19/01 AMEND: 1388, 1388.6, 1389, 1392,  
1397.63 REPEAL: 1388.5  
12/18/01 AMEND: 1397.61, 1397.64, 1397.65  
12/17/01 AMEND: 1088  
12/17/01 ADOPT: 2412 AMEND: 2418 REPEAL:  
2411 (a)(1)(A)



12/07/01 ADOPT: 386  
 12/04/01 AMEND: 1887.3  
 11/28/01 ADOPT: 872, 872.1  
 11/27/01 AMEND: 3340.16.5  
 11/20/01 ADOPT: 2450  
 10/31/01 ADOPT: 890

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03/01/02 ADOPT: 2638 AMEND: 2500, 2502, 2505, 2551, 2552, 2553, 2596, 2614, 2626  
 02/28/02 AMEND: 56002, 56031, 56033, 56034, 56134.1, 56035, 56036, 56037, 56038, 56048, 56054, 56057, 56059, 56060  
 12/28/01 AMEND: 6508  
 11/19/01 AMEND: 57310, 57332, 57530  
 11/19/01 ADOPT: 37000, 37020, 37025, 37100  
 11/14/01 ADOPT: 33001, 33002, 33003, 33004, 3005, 33006, 33007, 33008, 33009, 33010, 33011, 33012, 33013, 330014, 33015, 33025 AMEND: 33020, 33030, 33040 REPEAL: 33001, 33010  
 11/07/01 AMEND: 60201  
 11/05/01 ADOPT: 2638 AMEND: 2500, 2502, 2505, 2551, 2552, 2553, 2596, 2614, 2626

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02/28/02 REPEAL: 25115  
 01/16/02 ADOPT: 4063.5, 4098 AMEND: 4018, 4021, 4022, 4023, 4026, 4027, 4034, 4047, 4055, 4056, 4057, 4058, 4059, 4060, 4062, 4063, 4064, 4065, 4080, 4081, 4091, 4092 REPEAL: 4028, 4067, 4079, 4082  
 01/10/02 ADOPT: 29  
 01/08/02 AMEND: 1620  
 01/07/02 AMEND: 122.5  
 12/24/01 AMEND: 17000.30  
 12/24/01 ADOPT: 17951-6 AMEND: 17951-4  
 12/17/01 AMEND: 1642  
 12/14/01 ADOPT: 138  
 12/06/01 AMEND: 1660  
 12/04/01 AMEND: 1661  
 11/20/01 AMEND: 19513  
 11/08/01 ADOPT: 206  
 11/01/01 AMEND: 1617  
 11/01/01 AMEND: 1598

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02/08/02 AMEND: 2900, 2910, 2915, 2940, 2945, 2955, 2970, 2980, 2990  
 12/28/01 AMEND: 981.3  
 12/27/01 ADOPT: 565.1, 567.1, 567.2, 567.3, 567.4, 567.5, 567.6, 567.7, 567.8, 573, 575 AMEND: 550, 550.2, 557.1, 557.3, 557.4, 557.5, 557.6, 557.8, 557.9, 557.12,

557.13, 557.14, 557.16, 557.18, 557.19, 557.20, 557.21, 557.22, 557.23, 560, 560.1, 560.2, 560.3, et seq.

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01/16/02 AMEND: 201

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02/05/02 AMEND: 7101, 7102, 7111, 7114, 7116  
 12/04/01 AMEND: 7000

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03/06/02 ADOPT: 64860  
 03/05/02 ADOPT: 111900, 111910, 111920, 121100, 121120, 121140  
 03/01/02 AMEND: 14000  
 03/01/02 ADOPT: 68200, 68201, 68202, 68203, 68204, 68205, 68206, 68207, 68208, 68209, 68210, 68211, 68212, 68213  
 02/28/02 AMEND: 12000  
 02/21/02 ADOPT: 110041, 110098, 110284, 110299, 110428, 110430, 110473, 110539, 112002, 112015, 112025, 112034, 112035, 112100, 112110, 112130, 112140, 112150, 112152, 112154, 112155, 112200, 112210, 112300, 11230.1, 112302 AMEND: 110042, 110431, 110609  
 02/20/02 AMEND: 100209 (c)  
 02/13/02 ADOPT: 68300, 68301, 68302, 68303, 68304, 68305, 68306, 68307, 68308, 68309  
 02/11/02 ADOPT: 110413, 110550, 113100, 113200, 113300 REPEAL: 12-104.1, 12-104.432, 12-221  
 02/08/02 AMEND: 66260.10, 66261.9, 66262.11, 66264.1, 66265.1, 66268.1, 66270.1, 66273.1, 66273.2, 66273.3, 66273.4, 66273.5, 66273.6, 66273.7, 66273.8, 66273.9, 66273.10, 66273.11, 66273.12, 66273.13, 66273.14, 66273.15, 66273.16, 66273.17, 66273.18, 66273.19, et seq.  
 01/30/02 ADOPT: 67450.40, 67450.41, 67450.42, 67450.43, 67450.44, 67450.45, 67450.46, 67450.47, 67450.48, 67450.49, 67450.50 AMEND: 66262.20, 66270.6  
 01/24/02 REPEAL: Repeal the language "(See Section 3901.1, Retraining Benefits Definitions)" below Article 1.5. Retraining Benefits.  
 01/17/02 ADOPT: 84400, 84401, 84422, 84461, 84465, 84468.1, 84468.2, 84468.4, 84478 REPEAL: 84001, 84022, 84061, 84063, 84065, 84300, 84322, 84322.1, 84322.2, 84361, 84365, 84365.5, 84368.3, 84369  
 01/08/02 ADOPT: 7630, 7632, 7632.1, 7632.3, 7632.5, 7634, 7634.1, 7634.3, 7634.5, 7636, 7636.1, 7636.3, 7636.5, 7637.7,

7636.9, 7638, 7638.1, 7638.3, 7638.5,  
7638.7, 7638.9, 7638.11, 7638.13  
12/31/01 AMEND: 66260.10, 66262.12, 66263.40,  
66268.7 REPEAL: 66263.42  
12/19/01 AMEND: 5151 (c), 5151 (e), 51518 (b),  
51521 (i), 51527 (b)  
12/18/01 ADOPT: 11000, 110042, 110046,  
110088, 110099, 110129, 110135,  
110147, 110148, 110150, 110164,  
110182, 110184, 110186, 110194,  
110200, 110220, 110224, 110230,  
110252, 110261, 110289, 110341,  
110410, 110431, 110436, 110445,  
110456, 110474, 110478, 110479, et seq.  
11/30/01 ADOPT: 66273.6, 66273.80-66273.90  
AMEND: 66261.9, 66273.1, 66273.8,  
66273.9  
11/13/01 ADOPT: 64860  
11/08/01 ADOPT: 67900.1, 67900.2, 67900.3,  
67900.4, 67900.5, 67900.6, 67900.7,  
67900.8, 67900.9, 67900.10, 67900.11,  
67900.12  
11/08/01 ADOPT: 66250, 66250.1, 66250.2  
11/06/01 AMEND: 4408, 4409, 4414  
11/06/01 AMEND: 66264.140, 66264.143,  
66264.145, 66264.147, 66265.140,  
66265.143, 66265.145, 66265.147  
11/02/01 ADOPT: 100901, 100902, 100903,  
100904, 100904.5 AMEND: 100900  
11/02/01 ADOPT: 66261.9, 66273.1, 66273.2,  
66273.3, 66273.4, 66273.5, 66273.6,  
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66273.11, 66273.12, 66273.13, 66273.14,  
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66273.19, 66273.20, 66273.30, 66273.31,  
66273.32, 66273.33, et seq.

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02/21/02 AMEND: 87102, 87564.3, 87730  
11/08/01 AMEND: 84110, 85002, 87102

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02/13/02 AMEND: 3923  
01/03/02 AMEND: 3904  
12/28/01 AMEND: 451.1, 451.4, 451.5  
11/27/01 AMEND: 3952

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01/08/02 ADOPT: 7300, 7301, 7302, 7303, 7304,  
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7335, 7336  
01/03/02 ADOPT: 1302, 1316, 1317, 1318, 1319  
AMEND: 1300, 1304, 1306, 1310  
12/19/01 AMEND: 8202, 8203, 8212, 8212.1

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03/05/02 AMEND: 15110, 15240

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02/14/02 ADOPT: 1300.67.05  
12/27/01 ADOPT: 1300.41.8  
12/12/01 ADOPT: 1000

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03/06/02 AMEND: 63-403  
02/28/02 AMEND: 63-102, 63-103, 63-300, 63-  
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02/28/02 ADOPT: 40-107.141, 40-107.142, 40-  
107.143, 40-107.15, 40-107.151, 40-  
107.152, 42-302.114, 42-302.114(a)-(c),  
42-302.21(h)(1), 42-302.3, 44-133.8, 82-  
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02/21/02 AMEND: 63-102, 63-300, 63-301, 63-  
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01/14/02 ADOPT: 63-016 AMEND: 63-102, 63-  
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12/11/01 AMEND: 44-314, 82-518  
11/29/01 ADOPT: 44-302 AMEND: 25-301, 25-  
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